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Separate paging is given to this Part in order that it may be filed
as a separate compilation

NOTICE

The undermentioned Gazettes of India Extraordinary were published upto the 15th September 1964 :—

Issue No.	No. and Date	Issued by	Subject
233	S.O. 3314, dated 9th September, 1964.	Ministry of Steel and Mines.	Amendment to S.O. 1315, dated 11th April, 1964.
234	S.O. 3315, dated 11th September, 1964.	Cabinet Secretariat.	Amendments in the Government of India (Allocation of Business) Rules, 1961.
235	S.O. 3316, dated 11th September, 1964.	Election Commission, India.	Calling upon the elected member of the Legislative Assembly of Kerala State to elect a person to fill a vacancy caused by the death of Shri C.K. Govindan Nair.
236	S.O. 3317, dated 14th September, 1964.	Ministry of Commerce.	The Export (Quality Control and Inspection) Rule, 1964.
237	S.O. 3318, dated 14th September, 1964	Ministry of Information and Broadcasting.	Approval of films specified therein.
238	S.O. 3369, dated 15th September, 1964.	Ministry of Commerce.	Amendment to S.O. 1904, dated 1st June, 1964.
	S.O. 3370, dated 15th September, 1964.	Do.	Declaration that certain section of the Forward Contracts (Regulation) Act, 1952, shall apply to goods mentioned therein.

Copies of the Gazettes Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of these Gazettes.

PART II—Section 3—Sub-section (ii)

Statutory orders and notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administration of Union Territories).

ELECTION COMMISSION INDIA

New Delhi, the 7th September 1964

S.O. 3372.—It is hereby notified for general information that the disqualification under clause (c) of section 7 of the Representation of the People Act, 1951, incurred by the person whose name and address are given below, has been removed by the Election Commission in exercise of the powers conferred on it by the said clause and section of the said Act:—

SCHEDULE

Name and address of the disqualified candidate	Serial No. and name of constituency	Commission's notification No and date under which disqualified
I	2	3
Shri Purshottamal Mahasamund Post-Mahasamund	15-Mahasamund	MP-HP/15/64-Bye (I) dated the 9th July, 1964.

[No. MP-HP/15/64-Bye(I-R).]

New Delhi, the 11th September, 1964.

S.O. 3373.—In pursuance of section 106 of the Representation of the People Act, 1951, the Election Commission hereby publishes the order pronounced on the 29th August, 1964, by the Election Tribunal, Allahabad.

**BEFORE SHRI B. K. CHOUDHURI, MEMBER, ELECTION TRIBUNAL,
ALLAHABAD.**

ELECTION PETITION NO. 340 OF 1962

Shri Gomti, son of Shri Shankar, r/o village Rudrapur Bisen, P.O. Badgaon, Pargana, Tahsil and District Gonda.—Petitioner.

Versus

1. Sri Ram Ratan Gupta, son of Late Lala Behari Lal, r/o 20/204 Chatai Mohal, Kanpur, P.O. Kanpur, District Kanpur.
2. Sri Narayan Dandekar, son of Sri Mahadeo, r/o 177, Upper Colaba, Bombay 5.
3. Sri Hem Raj Gir, son of Gur Mahant Dutt, Raj, r/o Mathia Gird, Gonda, P.O. Babini Kanungo, Gonda, District Gonda.
4. Sri M. K. Sinha, father's name not known, resident of village Ganeshpur, P.O. Bahramghat, District Barabanki.—Respondents.

JUDGMENT DELIVERED ON AUGUST 29, 1964

1. This petition is filed by one Gomti, son of Shankar of village Rudrapur Bisen, District Gonda, under section 81 of the Representation of People Act, 1951, for setting aside the election of Ram Ratan Gupta, respondent No. 1, who was declared elected on 11th March, 1962 to the House of the People—Constituency No. 34, Gonda, in the State of Uttar Pradesh.

2. The petitioner is an Elector and is recorded as such in the Electoral Roll of U.P. Legislative Assembly Constituency No. 168, Gonda West, which is a segment of the aforesaid House of the People Constituency No. 34 Gonda.

3. In the General Election of 1962, the respondents No. 1 to 4 were the contesting candidates in the aforesaid House of the People Constituency, the polling for which was held on the 19th, 21st and 23rd February, 1962.

The said respondents were candidates on behalf of the parties, mentioned against the name of each:—

- (1) Sri Ram Ratan Gupta—Congress Party.
- (2) Sri Narayan Dandekar—Swatantra Party.
- (3) Sri Hem Raj Gir—Hindu Mahasabha.
- (4) Sri M. K. Sinha—Socialist Party.

4. The counting of the votes polled in the said election, for the respective candidates, took place initially on the 27th and 28th February, 1962, which continued till late after midnight in the succeeding night of that date.

5. On the 1st of March 1962, fixed for declaration of the result, Sri Ram Ratan Gupta, the respondent No. 1 moved an application before the Returning Officer alleging certain discrepancies in the counting and praying for a recount of the votes. The application was allowed by the Returning Officer.

The recounting of votes in the aforesaid Parliamentary Constituency was held on 9th, 10th and 11th March 1962 and, as a result, respondent No. 1 was declared elected.

6. The petitioner alleged that the respondent No. 1 himself and through his agents and other persons acting with his knowledge and permission committed the following corrupt practices:—

- (a) Respondent No. 1 arranged the visit of the Prime Minister of India in his constituency. The Prime Minister visited the constituencies on 1st February 1962 and addressed public meetings at Mankapur. In these meetings, the Prime Minister mainly spoke against Taluqadars and Rajas and criticised the feudal system. Sri Raghvendra Pratap Singh, who was the Raja of Mankapur Estate and leader of the Swatantra Party in Uttar Pradesh was contesting the election of Mankapur Assembly constituency within the aforesaid Parliamentary constituency and had set up four other Swatantra party candidates in the other four Assembly constituencies, namely Gonda East, Gonda West, Gonda North and Mahadeva. It is further alleged that Raja Raghvendra Pratap Singh was also instrumental in persuading respondent No. 2 to contest the aforesaid Parliamentary constituency, which consisted of the above five Assembly constituencies.
- (b) Respondent No. 1 was also instrumental in bringing the Chief Minister of Uttar Pradesh and the Minister of Forest, U.P., who also addressed public meetings on behalf of congress party in the aforesaid constituency. They along with other local leaders of the congress openly denounced the feudal system and characterised the candidates of Swatantra party as Feudal Lords and thereby prejudiced the voters against the Swatantra party candidates.
- (c) The respondent No. 1 and his agents and other persons with the knowledge and consent of Respondent No. 1 and his election agent, Rama Nath Misra, hired and procured bullock-carts and motor vehicles for the conveyance of the electors from a number of villages to the polling stations on 19th, 21st and 23rd February 1962.
- (d) Respondent No. 1, through his agents entertained the voters with sweets, biris, cigarettes, chabaina, etc., on the day of poll. Respondent No. 1, thus obtained a large number of votes by bribery.
- (e) Respondent No. 1 himself and through his agent and other persons acting with his knowledge and consent got the votes of a number of dead and absent electors of village Padri Shanker through fictitious persons impersonating for those dead and absent electors.

7. The petitioner, therefore, prayed that the election of respondent No. 1 be declared void and be ordered to be set aside and a vacancy be declared in respect of the same and that the costs of this petition be allowed to him against respondent No. 1.

8. The petitioner has also made a charge of corrupt practice having been committed at the election by respondent No. 2 as follows:—

- (a) Raja Raghvendra Pratap Singh, in furtherance of his election as well as that of respondent No. 2 exercised and maintained a reign of terror in the said constituency based on his feudal association. Almost at every polling station within the area of the said Mankapur constituency, respondent No. 2 with the active help of Raja Raghvendra Pratap Singh had posted a body of "strong men" for each polling station, who by a device of undue influence and pressure of threat made the voters to vote for respondent No. 2 and not to vote for the congress candidate or other candidates.
- (b) Respondent No. 2 in order to impair the prospects and to gain advantage thereby for himself, distributed money through his active supporters to about 1,000 voters and thus committed the corrupt practice of bribery. This was done with the stipulation that those voters who were paid would refrain from casting their votes.
- (c) On February 4, 1962, respondent No. 2 together with his supporter Raja Raghvendra Pratap Singh, visited Sarvan Pakar Mela. They performed a "Yagya" in order to impress upon the general public and the majority of the electorate of the constituency who had gathered there that respondent No. 2 and Raja Raghvendra Pratap Singh are religiously and spiritually to be regarded as chaste and pious Hindus and that respondent No. 1 was not so. They gave out in their speeches that the electorate would be acting against the divine precepts in supporting and giving the votes to respondent No. 1. They also addressed a meeting there, in which both of them said that respondent No. 1 was a heterodox Hindu, that he dines with Muslims and that he eats eggs, chicken and Morgas and fish and is thoroughly impious and ineligible to be called a Hindu Bania, and the general Hindu public and the electorate would be acting against the precepts of Hindu religion and Shastras if the electorate would vote for Respondent No. 1 or if the electorate would not accept Respondent No. 2 as their proper representative and vote for him, that the electorate including the Respondent No. 1 as their representative would not be trading the path of Hindu religious and spiritual conscience and of the divine precepts enjoined by the Vedas, on account of which 'Pap' (sin) would fall on the electorate.

The above statements about the personal character of respondent No. 1 were false to their knowledge and which they had no reason to believe to be true.

- (d) Respondent No. 2 himself and through his agents and workers got the votes of number of dead and absent electors of village Sikahra through fictitious persons impersonating for those dead and absent electors.

9. The petitioner also alleged corrupt practice against respondent No. 3 that he was the chief priest and Pujari of Lord Dukh Harannath, a famous and well known idol of Lord Shiva in the city of Gonda. Respondent No. 3 and his agents, workers and supporters represented to the electorate of the constituency that he was ordained by Lord Dukh Harannath to seek election for the Parliamentary constituency in question. They offered 'Tulsidal' and 'Bhabhooti' (sacred ashes) of Lord Dukh Harannath and implored them that the votes given to respondent No. 3 shall be given to Lord Dukh Harannath and those who would not vote for him shall incur the divine displeasure of the deity.

10. The allegations of corrupt practices made against the respective respondents are denied by them. Respondent No. 2 stated that on the night of 28th February, 1962, when the counting for the day was stopped (in spite of the previous declaration and announcement of the Returning Officer that the counting shall be finished and the results declared that day) the answering respondent was leading as against his nearest rival, respondent No. 1, by over 1,600 votes (only the postal ballot numbering about 90 remained to be counted on the night of 28th February, 1962, when the counting was stopped). At about 1.30 P.M. on 1st March, 1962, respondent No. 1 moved a *mala fide*, unreasonable and frivolous application before the Returning Officer praying for recounting. The Returning Officer dealt with the application in a summary manner, made no enquiry from the Assistant Returning Officers who were present at the time of counting, did not consider the fact that no objection whatsoever had been raised by any of the contesting candidates or their election agents in respect of the counting of four

Assembly segments and that all objections raised by respondent No. 1 in respect of the counting of the Mankapur Assembly segment had been fully considered by the Assistant Returning Officer and dismissed and that there could not be even a remote possibility of any error in the first counting. In the circumstances, the decision of the Returning Officer allowing a recount was arbitrary, improper and illegal.

11. The order of recounting passed in the interest of respondent No. 1 was unjustified and illegal and that at the time of recounting, there were clear indications of tampering with the ballot papers between the dates of counting and the dates of recounting, which were brought to the notice of the officers concerned, but were ignored by the Returning Officer in the interest of respondent No. 1. The declaration about respondent No. 1 being duly elected was wrong and petition No. 339 of 1962 was filed before the Tribunal in that connection. The election of respondent No. 1 is void and is liable to be so declared and set aside.

12. Respondent No. 2 further stated that this petition has been sponsored in the interest of respondent No. 1 and with the motive that in the event of the election of the respondent No. 1 being declared void in Election Petition No. 339 of 1962, respondent No. 2 may not be declared elected as prayed in that petition.

13. Respondent No. 2 denied that Raghvendra Pratap Singh was instrumental in persuading him to contest the election. He was a candidate set up by the Swatantra party to contest the Parliamentary election from his constituency. The allegations of undue influence or bribery or of making false statement against the character of respondent No. 1, or canvassing on the ground of religion, caste or community were denied by respondent No. 2. Respondent No. 2 further stated that the petition was malicious and frivolous and has been filed only to create complications in Petition No. 339 of 1962 and to delay the decisions of the same.

14. Respondent No. 3 admitted that he was the Mahant of Dukh Harannath temple of Lord Shiva. He denied that he or any of his workers induced the elector to believe that he or any person in whom he is interested will become an object of divine displeasure, if he did not vote for respondent No. 3.

15. The following issues were framed on the above pleadings:—

- (1) (a) Whether the visit of Pandit Jawahar Lal Nehru in the Constituency in question was arranged by respondent No. 1? If so, its effect.
- (b) Whether respondent No. 1 was instrumental in bringing Shri C. B. Gupta, the Chief Minister of U.P. and Shri Algu Rai Shastri, the Minister of Forest, U.P. to address public meeting in the aforesaid Constituency? If so, its effect.
- (2) (a) Whether Respondent No. 2 was put up for Parliamentary election by Raja Raghvendra Pratap Singh? If so, its effect.
- (b) Whether respondent No. 2 with the active help of Raja Raghavendra Pratap Singh, and his Agents, workers and supporters exercised terror and undue influence as set out in Annexure II of the petition? If so, its effect.
- (3) Whether respondent No. 1 and his agents and other persons with the knowledge and consent of Respondent No. 1 and his Election Agent, Sri Ram Nath Misra, hired and procured conveyances for taking electors to the Polling Stations and taking them back to their villages as set out in Annexure III of the Petition? If so, its effect.
- (4) Whether Respondent No. 2 in order to impair the prospects of the Congress candidate and to gain advantage for himself distributed money through his supporters to voters as set out in Annexure IV of the Petition? If so, its effect.
- (5) Whether Respondent No. 1, through his agents fed and entertained the voters with sweets etc., to attract voters and induce them? If so, its effect.
- (6) (a) Whether Respondent No. 2 and his colleague Raja Raghvendra Pratap Singh performed the Yagya on 4th February, 1962, and delivered speeches to excite the religious and communal feelings of the voters to his own advantage and to prejudice their minds against Respondent No. 1? If so, its effect.
- (b) Whether they made statements about the personal character of Respondent No. 1 as alleged in para 12 of the petition? If so, its effect.

Whether the statements were false to their knowledge?

- (7) Whether respondent No. 2 has committed the corrupt practices within the meaning of section 123(2) proviso (a) (ii) and in (4) of the Representation of Peoples Act, 1951?
- (8) Whether respondent No. 3 and his agents, workers and supporters represented to the electorate that he was ordained by Lord Dukh Harannath to seek the election in question and a vote to him shall be a vote to the Lord and that those who would not vote for him shall incur the divine displeasure?
- (9) Whether Respondent No. 3, by himself and through his agents has committed corrupt practices as defined in section 123(2) clause (a) Part (ii)?
- (10) Whether the recounting was unjustified and illegal?
- (11) Whether respondent No. 1 himself and through his agents and workers got the votes of dead and absent electorates through fictitious persons who impersonated dead and absent persons, mentioned in Annexure VII of the petition? If so, its effect.
- (12) Whether the election of Respondent No. 1 is void for corrupt practices as defined in section 123 of the Representation of the People Act, 1951?
- (13) Whether Respondent No. 2 himself and through his agents and workers got the votes of dead and absent electorates through fictitious persons who impersonated dead and absent persons mentioned in Annexure VIII of the petitioner? If so, its effect.

To what relief, if any, is the petitioner entitled.

FINDINGS

16. *Issue No. 1(a).*—There was a meeting which was addressed by the Prime Minister, but this meeting was not arranged by respondent No. 1.

Issue No. 1(b).—Meetings were addressed by the Chief Minister and Ganga Prasad at Gonda, but they were not arranged by respondent No. 1.

Issue No. 2(a).—No.

Issue No. 2(b).—No.

Issue No. 3.—No.

Issue No. 4.—No.

Issue No. 5.—No.

Issue No. 6(a).—No.

Issue No. 6(b).—No.

Issue No. 7.—No.

Issue No. 8.—No.

Issue No. 9.—No.

Issue No. 10.—See decision in petition No. 339 of 1962. Finding on this issue not necessary for the decision of this petition.

Issue No. 11.—No.

Issue No. 12.—No.

Issue No. 13.—No.

17. Reasons for the above findings:—

Issue No. 1(a).—Respondent No. 1 has admitted in his written statement that the Prime Minister had visited the constituency, but that was according to his tour programme in support of congress candidates all over the country. He also admitted that the Prime Minister spoke in the election meeting in furtherance of the programme and policy of the congress. Petitioner has led no evidence to show that the meeting at Gonda was arranged by respondent No. 1.

18. In paragraph 7(b), the petitioner stated that in the meetings addressed by the Prime Minister, he spoke against the 'Taluqदars' and Rajas and criticised the feudal system. The petitioner does not say what were the actual words used by the Prime Minister when he addressed the meetings. Mere criticism of the feudal system does not amount to corrupt practice.

I hold that the meetings addressed by the Prime Minister of India was not arranged by respondent No. 1 nor the criticism made by the Prime Minister at those meetings amount to corrupt practice within the meaning of section 123(a) of the Representation of People Act.

19. Issue No. 1(b).—Respondent No. 1 has admitted in the written statement that meetings in Gonda were addressed by the Chief Minister of Uttar Pradesh and also by the Forest Minister, Uttar Pradesh, in connection with the election programme of the congress. He denied that these meetings were arranged by him.

P.W. 2 Girdhari and P.W. 3 Mata Prasad depose that the meetings at Gonda were addressed by Sri C. B. Gupta and Ganga Prasad Barwar and that the meeting was arranged by Ram Ratan Gupta. Both these witnesses have admitted in their cross-examination that they did not attend any other meeting. They have not given any special reason why they attended these meetings only. No reliance can be placed on the bare testimony that these meetings were arranged by respondent No. 1.

20. The petitioner in paragraph 7(b) of the petition has stated that the Chief Minister and the Forest Minister and other local leaders of the congress openly denounced the feudal system and characterised the candidates of Swatantra party as Feudal Lords and thereby created the impression on the minds of the voters that it was not desirable to vote for the Swatantra party candidates.

Girdhari (P.W. 2) says that in their speeches the Chief Minister and Ganga Prasad Barwar addressed the meeting with the words:—

"Eh do admi kahen ki jo log khare hain Swatantra party ke log yeh Taluqdar aur Raja log ke hisab men khare hain. Agar inlogon ko vote diya jaye to jaise aap log rahan wese phir ho jayenge. Is nate aap log vote do congress party jo khare hain unka aap log raksha kar saken".

Mata Prasad (P.W. 3) says that the words used in the meetings were:—

"Unhon ne kaha tha ki yeh jo Swatantra party se khare hain yeh Raja aur Zamindaron ki partiyen hain aap log congress ko vote do ham Gharib kisan ke saathi hain yahi apni madad karenge Yeh log Zamindari aur taluqdar ko lane ki koshish karte hain".

They are at variance with each other as well as with the statement given in paragraph 7(b) of the petition.

Even presuming they gave speeches containing statements in the above manner, the words used by them do not amount to undue influence as alleged by the petitioner.

I hold that respondent No. 1 was not instrumental in bringing Sri C. B. Gupta, the Chief Minister of Uttar Pradesh and Sri Algu Rai Shastri, Forest Minister to address public meetings, nor the words alleged to have been used by them in the public meetings amount to undue influence.

21. Issue No. 2(a).—No evidence has been led by the petitioner to show that respondent No. 2 was put up for Parliamentary Election by Raja Raghvendra Pratap Singh.

The finding on this issue is, therefore, in the negative.

22. Issue No. 2(b).—The allegations regarding the commission of certain corrupt practices by respondents Nos. 1, 2, 3 have been made by the petitioner particularly to invoke the provisions of section 99 of the Representation of the People Act, 1951, under which specific orders concerning the commission or non-commission of corrupt practices and the names of persons, if any, committing them are necessary in addition to the final order under section 98 of the Act.

It is apparent from the application that charges of corrupt practice against respondents No. 1 and 3 have been levelled to camouflage the main object which is to obtain a finding against respondent No. 2 as envisaged in section 99 of the Representation of the People Act.

The half hearted manner in which evidence has been led against Respondents No. 1 and 3 lends support to the above view. This will be further clear on comparison of the charges laid against respondent No. 2 in the petition and similar charges made by respondent No. 1 against respondent No. 2 in Ex. P. 6, which is a copy of recrimination in Election Petition No. 339 of 1962—Sri N. Danekar v. Ram Ratan Gupta and others. There is no doubt that this petition has been sponsored by Respondent No. 1.

The petitioner has stated in paragraph 8 of the petition that almost at every polling station within the area of Mankapur constituency respondent No. 2, with the active help of Raja Raghvendra Pratap Singh, posted a body of "strong men" for each polling station, who by device of undue influence and pressure of threat made the voters to vote for respondent No. 2 and not to vote for the congress candidate or other candidates, thereby curbing the free exercise of the right of vote by the voters at those polling stations.

The details of polling stations and agents, workers and supporters of respondent No. 2, who exercised such terror and undue influence are given in Annexure II. In support of this allegation, the petitioner has referred to the deposition of Ram Chandra Misra, who was examined as R.W. 56 in Election Petition No. 339 of 1962 and filed a certified copy of his deposition.

The petitioner has not gone in the witness box to give the names of the persons from whom he received the information of terrorizing and exerting undue influence by the workers of respondent No. 2. Ram Chandra Misra does not say that he gave the above information to the petitioner.

23. Ram Chandra Misra was examined by respondent No. 1 in support of similar allegations made by respondent No. 1 in his recrimination petition under section 97 Representation of People Act against respondent No. 2 (petitioner in Election Petition No. 339 of 1962).

Ram Chandra Misra is an employee of respondent No. 1. He says he was deputed by him at Motiganj in the election work. Motiganj is within Vidyanagar polling station. He has stated about five incidents when the Swatantra party candidate had terrorized the public:—

(1) On the day of poll, he was at Vidyanagar polling station. At 12 noon he saw Sadhu Singh, Brinda Singh, workers of Swatantra party, threatening the women voters at a distance of some 20 yards from the polling station. They were abusing them and threatening them that if they voted for congress, they would be killed. Sheo Raj, Naurang Prasad, Randhir Singh and Bhola Nath Shukla also had witnessed the above incident and an application was given by Sheo Raj Singh, polling agent to the Presiding Officer there.

In his cross-examination, he admits that he did not make any written report to the Presiding Officer nor did Naurang Prasad, who had escorted the women voters, Sheo Raj, Naurang Prasad, Randhir Singh and Bhola Nath Shukla who are alleged to have witnessed the above incident have not been examined by the petitioner to corroborate the evidence of Ram Chandra Misra. He is a Munim of respondent No. 1 and is obviously an interested witness.

I disbelieve him when he speaks about the threat given by the Swatantra party men to respondent No. 1's voters.

24. The second incident, according to Ram Chandra Misra, occurred at 3 P.M. He says that his workers Naurang Singh, Randhir Singh were threatened by Sadhu Singh, a Swatantra party worker at Vidyanagar polling station. Sadhu Singh is said to have told respondent No. 1's workers that if they worked for congress, they will be murdered. They were also abused. Mundar Singh, another Swatantra party worker is said to have threatened his agent, Bhola Nath Shukla. A written report (Ex. R. 202-A) of Election Petition No. 339 of 1962 was made by Sheo Raj Singh and handed over to the Officer-in-charge police force posted at the polling station Vidyanagar.

When cross-examined, he could not say whether the Police Officer concerned made any enquiry about the matter complained of, nor could he say what steps were taken by the Police Officer in that connection. Ram Chandra Misra mentions the names of Sadhu Singh, Brinda Singh and Mundar Singh as Swatantra party workers who had threatened the congress workers and women voters at Vidyanagar polling station. But in Annexure No. II, the petitioner does not mention them as agents and workers of respondent No. 2 who are said to have threatened the congress workers. The complaint to the police was obviously baseless.

Ram Chandra Misra has concocted this story of threat and undue influence and I disbelieve him.

25. The third incident is in respect of a complaint made by Dargahi at about 7 P.M. at the close of the poll at Vidyanagar polling station. Dargahi informed the witness that Sadhu Singh, Ram Balak Singh, Bijai Pratap Singh, Hawaldar Singh, Ram Raj Singh, Lal Singh had destroyed his 'Matar' crop and had threatened to beat him if he worked for congress. Except the name of Ram Raj Singh, the other

persons have not been mentioned in Annexure No. II filed by the petitioner. The evidence of Ram Chandra Misra implicating the abovenamed persons is false.

26. The fourth incident is about a threat alleged to have been given by Sadhu Singh to the witness in the following words:—

"Ham tumhare patte ukhar denge aur tumhare munh me kutte muiwa denge aur jan se mardalenge".

27. He says about the fifth incident that Sadhu Singh, Ram Balak Singh and other Swatantra party workers were moving in Motiganj Bazar armed with spears and lathis and threatening him. Thereupon the witness sent telegrams to the District Congress Committee, Gonda, District Magistrate, Gonda and to the Superintendent of Police, Gonda (Ex. R. 220B). The incident in connection with threat given to Dargahi and to the witness was reported *vide* Ex. R. 202/C.

In his cross-examination, he admits that no case was launched by the Police as a result of the report Ex. R. 202/C of Election Petition No. 339 of 1962. His evidence about Dargahi's complaint is false. Dargahi has not been examined.

In Annexure II, the names of Sadhu Singh and Ram Balak Singh do not appear in the list of workers and agents of respondent No. 2 at Vidyanagar polling station.

28. Respondent No. 2, Narayan Dandekar (2 R.W. 2) has deposed that there was no question of any terrorising of the voters by any of the Swatantra party candidate or their workers during the electioneering. None of them attempted to do any such thing. He does not know any person of the name of Sadhu Singh Ram Balak Singh, Bijai Pratap Singh, Ram Raj Singh, Lal Singh, Havaldar Singh or Tej Singh of Vidyanagar area who are said to have been his workers. The petitioner has failed to show that the persons named in column 2 Annexure II were agents and workers of respondent No. 2 at Vidyanagar Polling Station.

The statement of Ram Chandra Misra is not worthy of reliance. The petitioner has failed to prove that respondent No. 2 with the active help of Raja Raghvendra Pratap Singh and his agents, workers and supporters exercised terror and undue influence on congress workers or voters and I hold accordingly.

29. Issue No. 3.—The petitioner has verified the petition that allegations made in paragraph 9 of his petition are based on information. He has not gone in the witness box nor has it been stated anywhere in the petition about the source of his information regarding the hiring of bullock-carts.

In paragraph 9 of the petition, it is stated that the hiring and procuring and obtaining the conveyances, bullock carts and motor vehicles was done on the day of the poll in the early hours of the morning and those conveyances piled throughout the day of the poll i.e. February 19, 21 and 23rd, 1962.

In Annexure III, the petitioner has given the name of cart-owners, the persons who hired and procured the carts, names of villages from where the voters were conveyed in these carts and names of the polling stations to which they were taken. In the same annexure, number of motor vehicles alleged to have been hired and used are also mentioned.

30. Sheo Naresh Singh (P.W. 1) is a resident of village Pakri Mauridih, which is in Gonda West Assembly Segment. He says that Kauria Bazar polling station is at a distance of two miles from his village. He was present there on the day of poll. There was a camp of Ram Ratan Gupta, respondent No. 1 and he saw the voters being brought from Belua-Bhan and Umra villages in bullock carts by Ram Ratan Gupta's men.

In his cross-examination, he says that both the villages Belua Bhan and Umra are at a distance of about 1 furlong from Kauria Polling station. It is difficult to believe that for the short distance bullock carts would be hired for taking the voters from the villages to the polling station. Moreover, P.W. 1 does not say that they were hired by Ram Swarup Tewari, whose name appears in Annexure No. III. When cross-examined, he could not give the name of the owner of the bullock carts nor could he name the workers of respondent No. 1 who used to bring the voters from these villages.

31. Bisram (P.W. 4) is a resident of Belua Bhan. He says that he was present at Kauria Bazar polling station on the day of poll. He saw voters being brought in bullock carts which were hired by Ram Ratan Gupta. They were brought from his village to the polling station. When cross-examined, he could not give the names of the persons who worked in the camp of respondent No. 1. He did not see Rama Ratan Gupta there. He could not give the name of the owner of the bullock cart or the place of his residence. He even could not name a single voter

who was brought from his village in the bullock cart. He could not say who engaged these bullock carts or what amount was fixed as hire. The name of the owner of the bullock cart in Annexure III was Ram Adhar Pandey of Kauria Bazar. This person has not been examined to corroborate Sheo Naresh Singh (P.W. 1) and Bisram (P.W. 4).

I place no reliance on the oral testimony of Sheo Naresh Singh (P.W. 1) and Bisram (P.W. 4). The petitioner failed to show that respondent No. 1 had hired bullock carts to convey the voters to the polling station.

No evidence has been led regarding the hiring of motor vehicles.

I hold that neither respondent No. 1 nor his agent hired or procured any conveyance for conveying the voters to the polling station.

32. Issue No. 4.—The petitioner in paragraph 10 of his petition has alleged that the only candidate who had good prospects was the congress candidate and that respondent No. 2, in order to impair his prospects and to gain advantage for himself, distributed money through his active supporters whose names and villages in respect of each polling station, mentioned above, is given in Annexure IV to about 1000 voters. This was done with the stipulation that those voters would refrain from casting their votes. Those voters were paid. The above allegation is denied by respondent No. 2.

33. Petitioner examined only one witness Dina Nath (P.W. 5). He is a resident of village Terrey Manorama. He says that Para-Sarai is one mile from his village and that Gouri Shanker Pandey was canvassing on behalf of respondent No. 2 in Para Sarai and in other villages. He met Gouri Shanker Pandey in Para Sarai and that he had collected about 50 persons at the door of Ram Lekhan and told them that those who will not go to cast their votes, will be paid Rs. 5/-.

The specific pleading is that money was actually paid; while the evidence of this witness is to the effect that money was offered.

In his cross-examination, he gives the names of several persons of village Para Sarai to whom the money was distributed. None of these persons have been examined to corroborate him.

34. Petitioner has not gone in the witness box to corroborate Dina Nath (P.W. 5), when he says that he had informed him about Gouri Shanker Pandey's offer to the voters.

Although, in Annexure IV, six polling stations have been mentioned where money is alleged to have been distributed by respondent No. 2's supporter in various villages. The petitioner has not adduced any evidence except that of the solitary witness Dina Nath (P.W. 5) and that too is in respect of only one polling station. Even this witness does not say that money was actually distributed. It is easy to foist any one as a worker of Respondent No. 2. Cogent proof is required to show that Gouri Shanker Pandey was, in fact, his worker at Para Sarai village.

I place no reliance on Dina Nath's evidence.

Respondent No. 2, Narayan Dandekar (2 RW. 1) has gone in witness box and deposed that he did not have any worker by name of Gouri Shanker, nor any money was distributed to voters.

35. Nandan Singh (2 RW. 2) worked for Swatantra party. He knows Gouri Shanker Pandey very well. He says that Gouri Shanker Pandey worked for congress. In his cross-examination he further reveals that Gouri Shanker Pandey lives in Baksara, which is about 25 miles from village Sikahra. He is definite that there is no Gouri Shanker Pandey living in village Para Sarai.

I accept the testimony of respondent No. 2 (2 RW. 1) and Nandan Singh (2 RW. 2). I find that the petitioner has failed to show that money was distributed by respondent No. 2's workers or supporters to the voters. The charge levelled against respondent No. 2 is baseless.

36. Issue No. 5.—Sheo Naresh Singh (P.W. 1) deposed that the voters who were brought in the bullock carts were provided with Birl, Pan, etc. by the workers of Ram Ratan Gupta. In his cross-examination, he admitted that he did not know the names of the persons who worked on the day of poll in the camp of Ram Ratan Gupta. He admits in his cross-examination that Kochwa is the polling station for his village Pakri Mauridih and Kochwa is about 2 miles from Kauria Bazar polling station, where he alleges to have been respondent No. 1's workers entertaining the voters. No reason has been given by him for going over to Kauria polling station, or to have cast his vote at Kochwa.

Bisram (P.W. 4) also deposed that he had seen that the voters who used to come in the camp of Ram Ratan Gupta were provided with sweets, Biri and cigarettes by his workers and after that they went to cast their votes. In his cross-examination, he says that the camp where sweets etc. were provided to the voters was set up by Ram Ratan Gupta as well as by Ganga Prasad, but he could not give the name of the person who worked in that camp on the day of poll, nor he could give the names of those persons who were engaged by Ram Ratan Gupta or by Ganga Prasad.

37. In Annexure V, the petitioner has mentioned the names of the persons who entertained the voters on behalf of respondent No. 1 and names of the polling stations where they were so entertained.

Petitioner examined Sheo Naresh Singh (P.W. 1) and Bisram (P.W. 4). No evidence has been led regarding the entertaining at other polling stations. Sheo Naresh Singh (P.W. 1) and Bisram (P.W. 4) are unable to say whether Ram Saran Shukla, named in Annexure V was the worker of respondent No. 1 or that he distributed sweets, Biri, etc. to the voters.

38. Respondent No. 1's witness Ravi Shanker Misra (1 RW. 1) has stated that he was in charge of supervising the election work of Gonda West Segment. He remained at Kauria polling station for two hours on the day of poll. He asserts that no arrangement was made by him or any one on his behalf to provide the voters with refreshment.

I find that the petitioner has failed to prove that respondent No. 1 or his workers, agents entertained the voters on the day of poll before they cast their votes and I hold accordingly.

39. Issue Nos. 6 and 7.—It is not disputed that the annual fair at village Sarvan Pakar was held on 4th February 1962 and also that a "Yagya" was performed there. In paragraph 12, the petitioner alleged:—

- (a) This "Yagya" was performed by respondent No. 2 and by Raja Raghvendra Pratap Singh to create an impression in the minds of the general public and the majority of the electorate of the constituency who had collected there that respondent No. 2 and Raja Raghvendra Pratap Singh are religiously and spiritually to be regarded as chaste and pious Hindu and further to impress upon them that respondent No. 1 was not so.
- (b) (i) After the "Yagya" respondent No. 2 and Raja Raghvendra Pratap Singh addressed a meeting of about 10,000 people, in which both of them declared to the electorate and the public that respondent No. 1 was a heterodox Hindu in character and conduct and in his habits of eating and dining with the Muslims, that respondent No. 1 eats eggs, chicken and Morgas and fish and all kinds of flesh and is thoroughly impious and ineligible to be called a Hindu Bania, that on account his conduct and character and the habits of eating and dining, the respondent No. 1 is mingled up with the Muslims wherefor the respondent No. 1 is not even a Hindu in reality.
- (ii) The general Hindu public and the electorate would be acting against the precepts of Hindu religion and Shastras if the electorate would vote for respondent No. 1 or if the electorate would not accept respondent No. 2 as their proper representative and vote for him, that the electorate including the respondent No. 1 as their representative would not be treading the path of Hindu religious and spiritual conscience and of the divine precepts enjoined by the Vedas, on account of which 'Pap' (sin) would fall on the electorate.

The petitioner contends that the above statements were false to the knowledge of respondent No. 2 and they have no reason to believe them to be true.

40. Respondent No. 2 denied the above allegation. He stated that the "Yagya" was performed in that village by the villagers to propitiate the Gods in connection with "Ashtakgrahi", as was done all over the country. He arrived at the Mela after the "Yagya" was over and addressed the meeting of the Swatantra party at 1 P.M. He denied that in the speech any reference was made to the personal character of respondent No. 1 or that any threat of divine displeasure was imposed on the people if they did not vote for him or if they voted for respondent No. 1.

41. To support the above charges levelled against respondent No. 2, the petitioner examined three witnesses—Ram Niwas (P.W. 6), Jwala Prasad (P.W. 7) and Dukh Haran (P.W. 8).

Ram Niwas (P.W. 6) deposed that he had attended the Mela and he was present at the time when the "Yagya" was being performed. He saw Sri Dandekar sitting along with five other Pandits, who were doing the "Yagya". Sri Dandekar was in yellow garment. Raja Sahib Mankapur was also there. He further says that Shastriji addressed as follows:—

"Kaha ki yeh bahut bare Panditji hain Dharam janne wale hain inhin ko sap log vote dijyega inko vote dene se Dharam ka bara raksha hogा aur Ram Ratan Gupta ko vote dena bahut paap hal kyonki woh anda khate hain sharab pite hain aur kuchh bole Shastriji lekin sunai nahin para".

According to him, Sri Dandekar also gave a speech as follows:—

"Hindu jati se ham vote maang rahe hain hamko vote dijeye ham wahan jayenge to Hinduon ka raksha karenge ham isi llye bahut bara Yagya kiya hai Yagya men jo kuchh kharch hua hai woh ham ne jaati kharch kiya hai adhik tar yalun Brahman jati hain aur ham bhi Brahman hain".

He further added that workers of Swatantra party were propagating and they were talking among themselves as follows:—

"Jaisa dihat men kaha jata tha waisa samne dekho Yeh bahut yogya Pandit hain inhin ko vote do yeh Dharam ka palan karenge. Inko vote na dene se Bhagwan par prakoup hojayega".

Latter part of his evidence is ignored as there is no pleading to that effect.

In his cross-examination, he says that only two persons—Sri Dandekar and Raja Sahib had addressed the meeting, but he could not hear the entire speech. He remembers only those words, which have been quoted above. He admits that "Yagya" was held in many other places also. In his cross-examination he was asked about Kamta Prasad, resident of village Harkoopur. He admits that he knows him and that he is the Pradhan of the village. He also admits that this Kamta Prasad had attended the Mela on that date and had also attended the "Yagya" there. Kamta Prasad certainly is a more responsible person than this witness and his testimony would have carried weight, but the petitioner has failed to examine him. The important portion of this witness's evidence is in respect of the actual words used by respondent No. 2 and Raja Sahib Mankapur. The speeches referred to by this witness are at a variance with those mentioned in pleadings. In this he is not corroborated by Jwala Prasad (P.W. 7) who is also from village Harkoopur.

42. Jwala Prasad (P.W. 7) is definite that while the "Yagya" was in progress, Satya Narain Pande said as follows:—

"Dekhiye aap logon ke samne Panditji havan aur yegya kar rahan hain kaise Hindu dharam ke palan karne wale wyakt hain aap log kripa kar ke aise mahan wyakt ko vote dekar ke saphalta prapt kijiye aur jo congress ke ummedwar Ram Ratan Gupta khare hain woh kahne ko to Hindu hain aur baniya hain lekin unka kam sab bhrashtachar hai unka achar vichar thik nahin hai aise admī ko vote dene se aap logon ko koi laabh nahin hogा".

This is in direct contradiction to the pleading. Petitioner has nowhere stated that speeches were made while the "Yagya" was in progress.

Jwala Prasad (P.W. 7) further deposed that after the "Yagya" was over, a speech was delivered by Shastriji, who spoke as follows:—

"Yeh Pt. Dandekar bahut vidwan admī hain yeh Brahman hain yeh Hindustan Jante hain aap logon ka Hinduapan bana rahega aur yeh aap logon ko har prakar ki subdha denge. Inko vote dijeye iske atirik agar aap log inko vote na denge to aap logon se Dayoo risya jayee".

Thereafter, he left. Evidently he did not hear the speeches made by Sri Dandekar or Raja Sahib Mankapur.

43. Dukh Haran (P.W. 8) says that he was present at the "Yagya" and saw Pt. Dandekar along with five other Pandits performing the "Yagya". According to

him, after the "Yagya" at about 1 P.M., Shastriji and Sri Dandekar addressed the meeting. Shastriji spoke as follows:—

"Pandit Dandekar parhe likhe admi hain achhe dharam ke hain inhin ko vote sab log do aur yagya bhi acha kiya hai".

And then Sri Dandekar spoke as follows:—

"Ham aap hi sab ke taraf se Hindu dharam se khare hue hain aur vote aap log hamko dijeye us baniye (Ram Ratan Gupta) ko vote na dijeye woh sharab pinewala hai gosht khane wala hai aise admi ko vote na dijeye woh mazdooron ka khoon choosnewala hai".

In his cross-examination, he says that Raja Sahib, Mankapur also spoke in the meeting. This is in direct contradiction to what Ram Niwas (P.W. 6) has deposed.

Further, Dukh Haran (P.W. 8) says that when the "Yagya" was being performed, Sri Dandekar was dressed in yellow robes. The other four Pandits who were performing the "Yagya" were also wearing yellow robes.

The witnesses are at variance with each other on this point. It is doubtful if they were at all present when the "Yagya" was performed or when respondent No. 2 addressed the Swatantra party meeting at the Mela.

44. Respondent No. 2 has gone in the witness box and has deposed that the Swatantra party meeting was addressed by five persons, including Thakur Baldeo Singh, a gentleman known as "Darjiwala" and one other person, besides himself and the Raja Sahib. He emphatically denied that any reference was made to the personal character of respondent No. 1 or that any appeal was made to the voters that they will be rendered an object of divine displeasure or spiritual censure if they did not vote for him or if they voted for respondent No. 1, nor did he say in his speech that he was standing as a Hindu and that they should vote for him. In his cross-examination, he was questioned as to the gist of the speech which he had delivered and he gives the gist:—

"It was concerned mainly with the congress policies, in particular their economic policies, and also with the grave state of high taxes, high prices, increasing officialdom, increasing corruption and the increasing extent of undue influence on elections through official machinery".

45. I place no reliance on the oral testimony of Ram Niwas (P.W. 6), Jwala Prasad (P.W. 7) and Dukh Haran (P.W. 8). Either they were not present, and if at all, they have failed to prove that the speeches given by respondent No. 2 and Raja Sahib Mankapur contained allegations against respondent No. 1 or any such inducement to the elections as contained in Section 123(a)(ii) of the Representation of People Act.

It has been held in *Bireshwar Misra V Ram Nath Sharma*, 17 E.L.R. 243 that oral testimony in support of the actual words used must be viewed with great care and caution; words even if proved may not give a true import of the speech and would not be sufficient to prove commission of the corrupt practice.

I find that petitioner has failed to establish the charge of corrupt practice alleged in paragraph 12 of the petition against respondent No. 2.

46. *Issue Nos. 8 and 9.*—Petitioner has filed Annexure 6 in which he has mentioned the name of polling stations, name of villages where respondent No. 3 and his agents and workers are alleged to have addressed the Hindu electorate.

In paragraph 13 of the petition, it is alleged that respondent No. 3, his agents and workers and supporters approached the voters in the segment of Assembly constituency of Gonda West and Gonda East and offered to voters the "Tulsidal" and "Bhabhooti" of Lord Dukh Harannath and implored them that the vote given to respondent No. 3 shall be deemed to be a vote to Lord Dukh Harannath himself.

and those who would not vote for respondent No. 3 shall incur divine displeasure of Lord Dukh Harannath.

Petitioner has examined Bisram (P.W. 4) and Dina Nath (P.W. 5) to support the above allegations.

Bisram (P.W. 4) is a resident of Belua Bhan. (P.W. 5) Dina Nath is resident of Terry Manorama. Village Beluabhan is not mentioned in Annexure VI. The evidence of Bisram (P.W. 4), therefore, can safely be ignored.

Dina Nath (P.W. 5) has stated that Baba Hem Raj Gir, respondent No. 3 came to his village Terry Manorama 10 days before the date of poll. He collected Hindu voters and said:—

“Shanker ji ke nam se ham khare hain aap log hamen vote dijeye yadi aap log hamen vote na denge to Shankerji naraz ho jayenge”.

The words uttered by respondent No. 3 are quite different from those mentioned in paragraph 13 of the petition. He does not say even that “Tulsidal” and “Bhoothooti” were offered to voters.

Dina Nath (P.W. 5) appears to be a got up witness and I disbelieve him.

Petitioner has failed to establish the charge of corrupt practice against respondent No. 3. I hold that respondent No. 3 did not address the Hindu electorate in the manner attributed to him.

47. Issue No. 11.—Petitioner alleged that respondent No. 1 through his agents and workers got the votes of dead and absent electors recorded with the help of fictitious persons who impersonated them.

No evidence has been led by the petitioner to prove the above allegation. The finding is, therefore, in the negative.

48. Issue No. 13.—Petitioner has alleged in paragraph 16 of the petition that respondent No. 2 and through his agents and workers and other persons acting with his knowledge and consent got votes of a number of dead and absent electorates of village Sikahra comprised of polling station Sabrapur polled through fictitious persons impersonating for those dead and absent electorate in favour of respondent No. 2. The list of such dead persons has been given in Annexure VIII.

Petitioner has led no evidence to support the above charge. The finding is in the negative.

49. Issue No. 12.—In view of the above findings, the Election Petition is dismissed with costs.

Applicant shall pay Rs. 2.75 p. as costs and Rs. 500/- as counsel's fee to Respondent No. 1.

Applicant shall also pay Rs. 58.50 p. as costs and Rs. 500/- as counsel's fee to Respondent No. 2.

Sd/- B. K. CHOUDHURI,
Member.

New Delhi, the 17th September 1964

S.O. 3374.—In pursuance of sub-section (6) of the section 116A of the Representation of the People Act, 1951, the Election Commission hereby published the decision of the High Court of Judicature at Patna, given on the 21st August, 1964, on appeals Nos. 13 to 16 of 1963, from the order dated the 9th September, 1963 of the Election Tribunal, Patna.

ELECTION APPEAL NOS. 13, 14, 15, AND 16 OF 1963.

From a dicision of Mr. P. K. Sarkar, Member, Election Tribunal Patna, dated the 9th September, 1962.

Elec. A13 & 14. (Sri Bhupendra Narain Mandal)—Appellant.

Versus

Elec. A13 Sri Ek Narain Lal Das and others—Respondents.

Elec. A14 Sri. Mabondra Mishra and others—Respondents.

Elec. A15 Sri Ek Narain Lal—Appellant.

Elec. A16 Sri Mahendra Mishra—Appellant.

Versus

Elec. A15 & 16. Shri Bhupendra Narayan Mandal and others—Respondents.

For the appellants in
Elec. Appl. Nos. 13 & 14. }
&
For the respondents in
Elec. App. Nos. 15 & 16. }
Mesars. S. N. Dutt, Kesri Singh,
B. K. Banerji and Ratneshwar
Prasad Sinha.

For the respondents in
Elec. App. Nos. 13 & 14. }
&
For the appellants in
Elec. App. Nos. 15 & 16. }
Messrs. Awadhesh Nandan Sahay
Kanhaiya Prasad Verma, Shyam
Nanda Prasad Sharma, T. Dayal
and Rajeshwar Majllick.

PRESENT:

The Hon'ble Mr. Justice Misra.

The Hon'ble Mr. Justice A. B. N. Sinha.

A. B. N. Sinha. J.—At the last Parliamentary election from the Saharsa Parliamentary Constituency held in February, 1962 there were three contestants; one each belonging to the Socialist, the Swatantra and the Congress Party. Their nomination papers had been duly accepted after scrutiny on the 22nd January, 1962. The polling was done on three dates, namely, 18th, 21st and 23rd February, 1962; and the result was announced on the 28th February, 1962 when Shri Bhupendra Narain Mandal, the Socialist candidate, was declared duly elected. Thereafter, the two election petitions by two voters respectively seeking for two-fold declarations, namely, (1) that the election of Shri Bhupendra Narain Mandal was void and should be set aside and (2) that Shri Lalit Narain Mishra, the Congress candidate, should be declared to have been duly elected, were presented to the Election Commission, one on the 11th April, 1962 and the other on the 16th April, 1962. The first was registered as Election Petition No. 177 of 1962, and the second as Election Petition No. 296 of 1962. The petitioner in each case is an elector duly registered in the said Parliamentary constituency. The respondents, however, were the same in both the petitions: Shri Bhupendra Narain Mandal, the returned candidate being respondent No. 1 and Shri Ramanugraha Jha and Shri Lalit Narain Mishra, the other two contestants being respondents 2 and 3 respectively.

Both the petitions were tried together under section 87 of the Representation of the People Act, 1951 (hereinafter referred to as "the Act") by the Election Tribunal. Fatua, and have been disposed of by one judgment dated the 9th September, 1963. The learned Election Tribunal has allowed the election petitions in part; the election of respondent No. 1 Shri Bhupendra Narain Mandal has been declared to be void under section 100(1)(b) of the Act, but the prayer that respondent No. 3 Shri Lalit Narain Mishra be declared to have been duly elected under section 101(b) of the Act has been rejected. The Election Tribunal has further made an order under section 99(1)(a)(ii) of the Act naming respondent Nos. 1 and 2 as persons found guilty of having committed corrupt practice within the meaning of sub-section (3) of section 123 of the Act.

Election Appeal Nos. 13 and 14 arising out of Election Petition No. 177 of 1962 and Election Petition No. 296 of 1962 respectively have been preferred by respondent No. 1 and are directed against the orders passed by the Election Tribunal under section 100(1)(b) of the Act declaring his election as void and under section 99(1)(a)(ii) of the Act naming him as one of the persons proved to have been guilty of corrupt practice. Election Appeal Nos. 15 and 16 of 1963 arising likewise out of Election Petition No. 177 of 1962 and Election Petition No. 296 of 1962 respectively have been preferred by the petitioners; Election Appeal No. 15 of 1963 by Shri E. K. Narain Lal Das and Election Appeal No. 16 of 1963 by Shri Mahendra Mishra; and both are directed against the judgment and order of the learned Election Tribunal in so far as it rejects their prayer for declaring Shri Lalit Narain Mishra, respondent No. 3, as having been duly elected. All these four appeals have been made analogous and have been heard together and this judgment will govern all of them.

Shri Ramanugrah Jha, respondent No. 2, being aggrieved by the order passed by the Election Tribunal under section 99(1)(a)(ii) of the Act against him filed two memoranda on the 7th October, 1963, one in Election Appeal No. 13 of 1963 and the other in Election Appeal No. 14 of 1963 purporting to do so under section 116A (1) of the Act and describing them as memoranda of cross-objections. By order No. 7 dated the 21st November, 1963, a Bench of this Court was pleased to admit the aforesaid two memoranda and directed the objector to deposit security and to file paper books as he would have been required to do if he had preferred independent appeals under section 116A of the Act. The question of the maintainability of the two memoranda as cross-objections was left open to be decided, if the parties so liked at the time of the hearing of the Election appeals themselves. None of the parties, however, raised the question of maintainability at the hearing. Indeed the question will not arise if, in fact or in substance, the memoranda in question being really in the nature of independent appeals could be treated as such and not as memoranda of cross-objection. In any case, all these questions will be examined while considering the order against respondent No. 2 on its merits.

It will be convenient to first take up the two appeals preferred by the returned candidate, Shri Bhupendra Narain Mandal who, as already stated, figured as respondent No. 1 in both the election petitions. Though various grounds were set forth in the two petitions for getting his election set aside the only ground pressed at the hearing before the Election Tribunal and which has been found against him was that the appellant, his election agent and other agents of his with his consent made appeals to the voters through meetings and propaganda, in particular, by distribution of printed hand-bill and leaflets to vote or refrain from voting on grounds of caste. It was alleged that the appellant, who belonged to the Yadav caste, his election agent Shri Urmilesh Jha and other persons with his consent, with a view to further the prospects of his election and prejudicially affect the election of respondent No. 3, who belonged to the Brahmin caste, appealed to the voters belonging to the Yadav caste scattered throughout the Parliamentary constituency, being in majority in some areas and ranging between 15 to 20 per cent in others, to refrain from voting for respondent No. 3 on the ground of his being a Brahmin and to vote for him on the ground that he was a Yadav. It was further alleged that the unwholesome propaganda carried on by the appellant on caste basis inevitably induced an atmosphere of hostility and acrimony between the people of the Yadav and the Brahman castes and thus promoted enmity and hatred between the castes. On the above allegations, the petitioners in both the election petitions asserted that the appellant and his election agent and other persons with the consent of the appellant or his election agent had committed corrupt practice under sub-sections 3 and 3A of section 123 of the Act, and, accordingly, his election should be declared to be void.

The three respondents to the two election petitions including the appellant appeared in the two cases arising out of the two election petitions and filed their respective written statements. The appellant in his written statement, besides

taking certain preliminary objections to the maintainability and validity of the election petitions, denied all the allegations made against him in the two election petitions. In particular, he denied that he or his election agent or any of his other agents with his consent or otherwise had made at any time any appeal to the voters belonging to the Yadav caste to vote or refrain from voting on grounds of caste or to have done anything to promote feelings of enmity or hatred between the Brahmin and Yadav voters. He denied to have been in any manner connected with the printing, publication or distribution of the hand-bills or leaflets enclosed with the two election petitions. His case was that no such hand-bills or leaflets as mentioned in Annexure D (1) in Election Petition No. 296 of 1962 or marked as Annexure B (1) in Election Petition No. 177 of 1962 were published or got printed by him or by his election agent or by anybody on their behalf with their consent or otherwise, and so such handbills or leaflets were distributed anywhere in the Constituency during the election. He further stated that it appeared that the handbills or leaflets in question are brought into existence either during the election or afterwards by respondent No. 3 or his agents to make use of them when needed as the said respondent and his men had lost all hopes of success in the said election, and, that so far as the election propaganda on his behalf was concerned, it was solely on the lines of the programme of the Socialist Party, to which he belonged, and that the party programme had forbidden all caste appeals.

Respondent No. 2 in his written statement denied that he was not a serious candidate and wanted to withdraw from the contest but was induced by the appellant not to do so, that he had made any appeal to the voters on the grounds of religion and caste or had printed, published or distributed or was in any way connected with the printing, publication or distribution of the leaflets bearing his name and enclosed with the election petitions. He, however, supported the petitioners' case that appeals on the ground of caste were made by the appellant to the voters of the Yadav caste and, accordingly, he did not oppose the prayer of the petitioners for declaring the election of the appellant as void, but he opposed the prayer of the petitioners for declaring respondent No. 3 to have been duly elected. Respondent No. 3 in his written statements supported the case of the petitioners and the reliefs prayed for by them, and he further stated that but for caste propaganda by and on behalf of the appellant and on behalf of respondent No. 2, he would not have been defeated at the election.

On the pleadings of the parties, as many as nine issues were raised in each of the election petitions. Except the preliminary issue relating to the bar of limitation which was raised in Election Petition No. 296 of 1962 alone, the rest of the issues were common to both the petitions. The Election Tribunal has held that Election Petition No. 296 of 1962 was not barred by limitation, and this finding has not been challenged before this Court. The other preliminary issues arising in the two Election Petitions were as follows:

- (1) Are the allegations of corrupt practices supported by an affidavit in the prescribed form, as required by the proviso to section 83 of the Representation of the People Act, 1951? If not, what should be the effect thereof?
- (2) Are the election petition and the annexures thereto properly verified?
- (3) Does the election petition comply with the provisions of section 81 of the Representation of the People Act, 1951?

In regard to the first, the Election Tribunal has held that through the allegations of corrupt practices made in the two election petitions were not supported by an affidavit in the form prescribed under rule 94A of the Conduct of Election Rules, 1951 as enjoined by the proviso to section 83(1) of the Act, the said proviso not being mandatory, the petitioners were not debarred from agitating the question of corrupt practice before the Tribunal. The correctness of this conclusion was not seriously contested, and indeed, upon the authorities, it is well settled that a non-compliance with the provisions of section 83 of the Act is not fatal to the maintainability of an election petition. Mr. S. N. Dutt, appearing for the appellant, however, contended that besides the fact that the affidavits in support of the allegation of corrupt practice were not in the prescribed form as enjoined by the proviso to section 83(1), the election petitions even after the amendment of some of the annexures to the same did not contain full particulars of the names of the parties, alleged to have committed the corrupt practice, or the dates and place of the commission of such corrupt practice, and, as such, applying the ordinary rule as to pleadings, evidence of corrupt practice alleged should not have been allowed to be put in and, even if allowed, should not have been looked into. In my opinion, there is no substance in this contention. I find that in both the cases the petitioners applied for amendment of some of the enclosures to the election petitions with a view to give further and specific particulars as to Commission of the

corrupt practice by way of amplifying the statements already made in regard to the alleged corrupt practice in the two election petitions. These amendments were allowed after objections thereto on behalf of the appellant were over ruled. Through the amendment as full a statement as possible of the names of the parties alleged to have committed the corrupt practice in question and the date and place of the commission of such corrupt practice were set forth. In case No. 177, for instance, in Annexure B the names of the persons who, it was alleged, had committed the corrupt practice alleged in paragraph 16(b) of that petition with the dates and place of commission thereof had already been given, but as the dates were not mentioned village by village in every case so as to indicate on which date the alleged corrupt practice was committed in a particular village, by the amendment the dates of commission of corrupt practice in each of the villages were specified. Likewise in case No. 296 of 1962, Annexure D had furnished particulars of the corrupt practice alleged in paragraph 21 of the petition giving the names of the persons who had addressed the meetings and had distributed handbills making appeals on caste lines but contained a general statement without details to the effect that those meetings had been addressed throughout certain Assembly constituencies. This defect was sought to be remedied by the amendment petition filed on the 16th October, 1962, whereby the villages where such meetings had been addressed with the date of the meeting in each village, were sought to be added to the said annexure. In the circumstances, it is not correct to say that as full a statement as possible of the particulars in regard to the names of the parties alleged to have committed the corrupt practice in question and the date and place of the commission of such corrupt practice had not been ultimately furnished. Moreover, even assuming that despite the amendments to the annexures as aforesaid, only insufficient particulars of the corrupt practice alleged had been furnished, that by itself will be of no avail to the appellant. As a matter of fact, notwithstanding the alleged insufficiency of particulars, evidence in regard to the corrupt practice alleged against the appellant has been allowed to be given and taken. The Supreme Court in more than one case [*Vide Bhagwan Datta Shastri v. Ram Ratanji Gupta* (A.I.R. 1960 Supreme Court 200) and *Balwan Singh v. Lakshmi Narain* (A.I.R. 1960 Supreme Court 770)] while dealing with similar contentions has laid down that when the parties have gone to trial and, despite the absence of full particulars of the corrupt practice alleged, evidence of the contesting parties has been led on the plea raised by the election petitions, the petitions could not thereafter be dismissed for want of particulars, because the defect was one of procedure and not one of jurisdiction of the Tribunal to adjudicate upon the plea in the absence of particulars; and the only question that could arise in such cases was whether, by reason of the absence of full particulars, any material prejudice has been occasioned. Now, in the present case, I am satisfied upon the state of the record that no such material prejudice has been occasioned. It will be seen that in none of the two written statements put in by the appellant in the two election cases respectively, any grievance has been made that because of the absence of full particulars as to the names of the persons by whom and the date on which and the place or places where the corrupt practice alleged was committed, he was unable to meet the charges made against him. In paragraph 30 of the written statement filed in Election Case No. 296 of 1962, the contention was that the allegation in regard to corrupt practice, as made in the election petition was liable to be struck off on account of the absence of full particulars therein. In the other written statement filed in Election Case No. 177 of 1962 as well, though a plea was taken in paragraph 13 thereof that the election petition was fit to be dismissed for non-compliance with the provisions of section 83 of the Act and that the contents of petitions and their annexures had not been properly verified or supported by any affidavit in the prescribed form, no grievance was made anywhere in any of the several paragraphs that the appellant was unable to meet the charges made against him for lack of full particulars. It appears that the appellant had strenuously opposed the prayer for amendment of the relevant annexure in the two election cases seeking to bring on the record fuller and more specific particulars of the corrupt practice alleged. This must have been done with a view to persuade the Tribunal to dismiss the election petitions after the prayer for amendment had been rejected, presumably on the ground of non-compliance with the provisions of section 83(1)(b) of the Act; but after the amendments were allowed by the Tribunal and after the application filed under Article 226 of the Constitution to get these orders of amendment quashed had failed, it appears that the appellant reconciled himself to the position, with the result that the evidence relating to the corrupt practice alleged in all its particulars was allowed to be admitted on the record without any objection on his part, and indeed, the appellant examined as many as 67 witnesses to meet the allegations of corrupt practice alleged against him and at no time whether during the trial or at the stage of the argument any plea was taken on his behalf that for want of sufficient particulars he had been embarrassed in his defence. In the circumstances, I am unable to hold that any prejudice, muchless any material prejudice, has been

occasioned on account of the alleged non-furnishing of full particulars in regard to the corrupt practice in question in the election petitions or in the annexures attached thereto. Accordingly, this contention of Mr. Dutt is without any substance.

In regard to the second preliminary issue, namely, whether the election petitions and annexures thereto had been properly verified, the Tribunal found that there was nothing wrong with the verification in Case No. 177 of 1962, but in case No. 296 of 1962 the verification was defective. It, however, allowed the defect to be removed by amendment. No grievance has been made by the appellant on that account.

In regard to the third and the last preliminary issue which has also been decided against the appellant by the Tribunal, it appears that this issue was not pressed in case No. 177 of 1962, obviously because there was no foundation laid for it in the written statement of the appellant filed in that case. Nowhere in that written statement, not even in paragraph 13 wherein allegations in regard to non-compliance with the provisions of section 83 of the Act have been made, any mention has been made about any non-compliance with the provisions of section 81 of the Act. So far as case No. 296 of 1962 is concerned, the position on the written statement, which was filed on the 27th August, 1962, was no better. Merely a vague and a general statement was made in paragraph 4 thereof to the effect that the election petition had not been filed in accordance with law. The appellant, however, filed a petition on the 5th October, 1962 alleging that the petitioner Mahendra Mishra had not complied with the mandatory provision of section 81(3) in so far as the copy of the election petition filed by him before the Election Commission and sent to the appellant had not been attested by the petitioner, under his signature to be a true copy of the petition. The copy of the election petition alleged to have been received by the appellant was put in along with his petition on the 5th October, 1962 and later on the basis of his evidence on the 9th July, 1963 was marked as Ext. F. Meanwhile, on the 16th October, 1962 the petitioner Mahendra Mishra had put in a rejoinder supported by an affidavit stating *inter alia* that he had filed one original and five copies of the election petition with the Election Commission and the copies thereof had been duly attested under his signature to be true copies of the election petition and of the annexures thereto on the starting page which contained the cause title and index of the petition and of the annexures. A true copy of the starting page of the election petition was enclosed with the rejoinder was, annexure I thereto. It was further stated therein that as soon as the appellant had filed the petition on the 5th October, 1962, the copy of the election petition which had been received by respondent No. 2, namely, by Shri Ramanugrah Jha containing the starting page and the attestation under the signature of the petitioner thereon, was shown to the Tribunal. The petitioner further pointed out that the fact that the written statement filed on behalf of the appellant did not mention anywhere that the copy of the election petition which had been received had not been duly attested clearly showed that the complaint was an after-thought and it appeared that the appellant had either suppressed the starting page to fish out a ground at such a late stage or the starting page having somehow got misplaced, a false plea had been raised. The Tribunal has accepted the petitioner's case and has held that no case of any non-compliance with section 81(3) had been made out, and, I am satisfied that there is no merit in the appellant's challenge to this finding.

In the first place, I am inclined to take the view that, strictly speaking, the appellant has adduced no evidence to show that the copy which he produced before Tribunal as having been received from the Election Commission was the same which he had actually received from the Commission. Sub-section (3) of section 81 of the Act speaks of attestation of copies of the election petition presented to the Election Commission. The allegation of the appellant that the copy of the petition which he received from the Election Commission did not bear the requisite attestation could, therefore, be substantiated only by the evidence of the Election Commission and not by the mere production before the Tribunal by the appellant of the copy said to have been received from the Commission. As there was no such evidence in the present case, the appellant's contention should have been rejected on that ground alone. In the second place it may be mentioned that the appellant has admitted in his deposition that he was a candidate from Madepura cum Trilambiganji and Madhepura constituencies in the Assembly elections of 1952 and 1957, that he won in 1957 but had lost in 1952, that he knew the election rules generally before he contested the election, and finally that he was a lawyer though he had given up his practice. In the circumstances, it is impossible to believe that if, in fact, the copy of the election petition which he had received from the Election Commission did not contain the requisite attestation thereon as required by section 81(3) of the Act, he would have omitted to make a specific point out of it in his written statement. The fact that he did not do so quite clearly

suggests to me that at the time when he filed the written statement, he had no basis, in fact, for making out any such ground for attack to the election petition.

It appears that the Tribunal had been shown the true copy of the election petition in case No. 296 of 1962 which had been served on respondent No. 2. The Tribunal had not, however, placed that copy on the record. At the hearing in this Court, it was considered desirable to place that copies on the record; and on the learned Counsel appearing for respondent No. 2 stating that his client had no objection to producing that copy, it was placed on the record with the consent of the parties concerned. A comparison of the copy of the election petition which had been served on respondent No. 2 and which has now been placed on record, as aforesaid, with the copy of the starting page of the election petition enclosed with the petitioners' rejoinder as annexure I thereto shows clearly that there was a starting page to the Election Petition No. 296 of 1962 containing the cause title and the index and having the endorsement attested to be true copies of the election petition and annexures thereto" with the signature of the petitioner subscribed thereon. In the circumstances, it is extremely unlikely that the copy of the election petition which was served on the appellant did not have such a starting page with the requisite attestation thereon. The original election petition No. 296 of 1962 also shows that there was an index sheet attached to it forming its starting page and bearing the seal of the Election Commission on it. It appears from the endorsement on the Election Petition by the Under Secretary to the Election Commission that the election petition was presented before the Election Commission by the petitioner and the verifications were signed at New Delhi in the presence of the Under Secretary, Election Commission, who attested the signature of the petitioner, Mahendra Mishra. In the circumstances, it is not possible to hold that five copies of the election petition which had been furnished by the petitioner to enable the Election Commission, as required by section 86(1) to cause a copy to be published in the Gazette and a copy to be served by post on each respondent, did not contain the starting page with the Index sheet and did not have the requisite attestation thereon, because after all, as has been pointed out by the Tribunal, the attestation of the copies as true copies was necessary more for the satisfaction of the Election Commission than for the respondents. In this context, it is, in my opinion, reasonable to presume that the Election Commission found all the copies in order, otherwise there was nothing to prevent them from either getting any defect rectified then and there because the petitioner had himself presented the election petition, or, to exercise their power under section 85 of the Act and dismiss the election petition on the ground that the copies furnished did not contain the requisite attestation. All these factors lead to a reasonable inference that the petitioners' case that he had furnished five copies, duly attested as required by section 81(3), to the Election Commission was true, and that the copy of the election petition which was served on the appellant did contain the starting page with the cause title and the index and the requisite attestation by the petitioner thereon; but it may be that that starting page having got detached from the rest of the election petition got mislaid somewhere and when the appellant noticed it nearly two months after the filing of his written statement, he came up with a petition on the 5th October, 1962 raising the ground of non-compliance with section 83(1) of the Act. The finding of the Tribunal on this preliminary issue as well, therefore, must be upheld.

On merits, the main attack on behalf of the appellant has been directed against the various findings reached by the Tribunal on which its ultimate finding to the effect that corrupt practices within the meaning of sub-sections 3 and 3A of section 123 of the Act had been committed at the election by the appellant, his election agent Shri Urmilesh Jha and by one Shri Asheshwar Goet—an agent of the appellant-at several places in the constituency. The case of the petitioners, which was pressed at the hearing before the Tribunal, was, as has been already stated, that the appellant and his election agent as also other agents with his consent had appealed to the voters belonging to the Yadav caste to vote for him and refrain from voting for respondent No. 3 on the ground of caste, and that these appeals were made through meetings and propaganda and, in particular, by distribution of printed handbills or leaflets, copies whereof had been enclosed with the annexures to the election petitions. According to the petitioners, the offending leaflet constituted in clear terms an appeal to the voters belonging to the Yadav caste to vote for the appellant on the ground that he belonged to their caste and to refrain from voting for respondent No. 3 on the ground that he was a Brahmin by caste. This leaflet on the case of the petitioners, as made out at the hearing, was got printed at the instance of the appellant by Shri Urmilesh Jha, his election agent who having written the manuscript thereof had sent the same for printing to the Mithila Art Press, Darbhanga through one Bhuneswar Biswas, one of the polling agents of the appellant with a covering letter in his own hand addressed to the Manager of the said Press. It was further

the case of the petitioners that as per the order received from Shri Urmilesh Jha as aforesaid, 5,000 copies of the offending leaflet were printed and delivered to aforeaid Bhuneswar Biswas on the 9th Februray, 1962 who paid off the printing charges to the Press, that these leaflets were freely distributed with the consent of the appellant at several places within the constituency on different dates and that the appellant himself was present at some of these places. The petitioners had also adduced evidence to the effect that, besides distrilbuting the offending leaflet, the appellant, his agents and workers had indulged in caste propaganda among the Yadav voters, but the Tribunal has placed no reliance on any such evidence on the ground that it was of a general and vague character. It is apparent that the ultimate crucial finding reached by the Tribunal against the appellant rests mainly on its finding relating to the printing and distribution of the offending leaflet. The case of the appellant, on the other hand, was that the offending leaflets were forged and ante-dated documents and had been printed and broguht into existence at the instance of respondent No. 3 either during or soon after the election, because he had ganged the situation in advance and had lost all hopes of succeeding at the election. According to the appellant, it was false to say that the manuscript of the offending leaflet was in the hand of his election agent, Shri Urmilesh Jha, or that his election agent had got the same printed at the Mithila Act Press as alleged or had sent any letter under his hand to the Manager of the said Press. The Tribunal has accepted the petitioners' case and has come to the following conclusions:-

- (i) that from the context, language and tenor of the offending leaflet, it was clear that it constituted an appeal to the Yadav voters to vote for the appellant and to refrain from voting for respondent No. 3 on the ground of caste;
- (ii) that both the manuscript of the offending leaflet (Ext. 6/B) and its covering letter were in the hand of Shri Urmilesh Jha, who had sent both, through Shri Biswas, to the Manager of Mithila Art Press, Darbhanga, for getting 5,000 copies of Ext. 6(b) printed at the said Press, and after printing the Press had delivered the printed copies to Shri Biswas on the 9th February, 1962;
- (iii) that the leaflets had been printed subscquently or after the election stood falsified by clear and unimpccable evidence;
- (iv) that the offending leaflet had been distributed in the constituency at Saharsa, Pratapganj Bazar, Basantpur Hat, Pachhoria tola in village Karjain on different dates; and
- (v) that the appellant himself was present at the distribution of the leaflet at Saharsa, Pratapganj Bazar, Basantpur Hat and Pachhoria tola in village Karjain.

Learned Counsel, appearing for the appellant, has challenged the above findings as wholly erroneous, unjustified and unwarranted on the materials on the record.

In regard to the finding that the leaflet in question constituted a clear appeal to the Yadav voters to vote for the appellant, a member of that caste, on the ground of caste and to refrain from voting for respondent No. 3, because he belonged to the Brahman caste and, as such, had offended against the provisions of sub-section (3) of section 123 of the Act, it has been urged that neither the context nor the language or the tenor of the appeal made therein warranted such a finding. I am, however, satisfied that there is no substance in this contention. I have carefully read the manuscript of the offending leaflet (Ext. 5/B) as also its English translation (Ext. 6/b-1) set out in paragraph 87 of the judgment of the Tribunal. It may be mentioned that the correctness of the translation was not challenged either before the Tribunal or before this Court except to pointing out, that in third linc instead of the word "suppressed", the more appropriate word would have been "neglected" or "ignored", but even if the word "suppressed" was supplanted by the word "neglected" or "ignored", it will, in my opinion, and as found by the Tribunal make no difference whatsoever to the true meaning and import of the leaflet. The leaflet, as its heading shows, is "An appeal to the Yadav brothers of Saharsa Parliamentary constituency", and as appears from the name of the signatories the appeal has been made on behalf of six members belonging to the Yadav caste. The question, however, is whether its contents constitute an appeal to the Yadav voters to vote for the appellant on the ground of caste and to refrain from voting for respondent No. 3, because he was non-Yadav and a Brahmin. I have no doubt that it constitutes such an appeal. Now coming to its contents, it will be seen that having pointedly accused respondent No. 3-a Brahmin and Pandit Rejendra Mishra, who happened to be his cousin, for their machinations in the interests of the Brahmins, resulting in the Congress authorities

giving three tickets for the State Assembly and one for the Lok Sabha to only Brahmin candidates, and thereby ignoring the claims of candidates belonging to the Yadav caste including even their grand old leader Shri Shivanandan Prasad Mandal, though the members of that caste constituted 30 per cent of the population of Saharsa district, its first paragraph ends by describing the aforesaid action on the part of respondent No. 3 and his cousin as a challenge thrown to the Yadav caste and to the backward communities of that district and by exhorting the members of the Yadav caste to accept the challenge by acting in the manner suggested in the second paragraph, *viz.*, by launching a vigorous election campaign against respondent No. 3—the Congress candidate—and by electing the appellant—a rising Socialist leader—belonging to the Yadav caste. From the tenor of this document it is clear that the emphasis is on the caste of the respective candidates and not on whether they were members of the Congress or of the Socialist Party. It is the Yadav caste voters who, according to the leaflet, had been wronged by the machinations of certain Brahmins including Respondent No. 3 in the interests of Brahmins and, it had become, according to the leaflet, the duty of the members or voters of that caste to revenge that wrong and give a fitting reply by electing one of their own castemen, *viz.*, the appellant. In my opinion, the Tribunal has rightly held that in the last sentence of the leaflet the stress is on the caste of the appellant and not on his being a "rising Socialist leader". These were words of mere description. The leaflet read as a whole gives the unmistakable impression that the caste loyalty of the voters belonging to the Yadav caste was being played upon and they were being requested in the name of caste to vote for one of their castemen and refrain from voting for respondent No. 3—the candidate who belonged to the Brahmin caste. On the terms of the leaflet itself, it was clear that the appeal on caste lines was for the furtherance of the prospects of the election of the appellant and for prejudicially affecting the election of respondent No. 3. This contention, therefore, must fall.

The next question is whether Ext. 6(b), the manuscript of the offending leaflet, and Ext. 6(c), the covering letter, alleged to have been sent by Shri Urmilesh Jha, the election agent of the appellant, to Shri Ramakant Mishra, the Manager of the Mithila Art Press, Darbhanga, were genuine documents and had been written by Shri Urmilesh Jha or not. The Tribunal has come to a clear finding that they were genuine documents and had been written by Shri Urmilesh Jha, Learned Counsel for the appellant has strenuously challenged the correctness of this finding. It will be seen that this finding of the Tribunal was based not only on a comparison of the disputed writings and signatures with the admitted writings and signatures of Shri Urmilesh Jha but also on the positive evidence of at least two such persons (P.W. 39 and 42) whose acquaintance with the signatures and writings of Shri Urmilesh Jha could admit of no doubt, and, on certain very relevant circumstances. There is no doubt that a decision on this question was of vital importance. Once it was held that both Exts. 6(b) and 6(c) were in the hand of Shri Urmilesh Jha and were genuine documents, the evidence on the question as to who got Ext. 6(b) printed and also on the question of the distribution of the leaflets so printed will naturally gain considerable weight and evidence.

The positive evidence about the genuineness of the writings in Exts. 6(b) and 6(c) is comprised of the testimonies of four witnesses examined on behalf of the petitioners. They were P.Ws. 3, 39, 42 and 44. No reliance has been placed by the Tribunal on the first and on the last, because on their evidence neither P.W. 3 nor P.W. 44 could have had sufficient opportunity to be familiar with the handwriting of Shri Urmilesh Jha. The Tribunal has, however, held that both P.Ws. 39 and 42 were competent to prove the handwriting of Shri Urmilesh Jha, and there was no reason why their evidence should not be accepted. On behalf of the appellant, it has been urged that the Tribunal had erred in believing the evidence of P.Ws. 39 and 42 and that it had further erred in holding that P.W. 39 was a member of the Socialist Party since 1959 and that he was appointed as the polling agent of the appellant at Chainpur booth by Shri Urmilesh Jha. In my opinion, there is no substance in these contentions. P.W. 39 has claimed that he was a member of the Socialist Party since 1959 and was also a member of the working committee of the District Socialist Party. It appears from the evidence of witness No. 55 for the appellant Shri Asheshwar Goit, who was himself a candidate for election to Bihar Legislative Assembly in 1962 from Raghpur constituency, that a list of members of the Saharsa district was maintained and was available with the District Secretary. It was for the appellant to have produced that list of members and refuted the claim of P.W. 39 that he was a member of the Socialist Party since 1959. That has not been done. In the circumstances, it is idle to contend that P.W. 39 has falsely claimed to be a member of the Socialist Party since 1959. The fact that he was the polling agent of the appellant at Chainpur booth and had been so appointed by Shri Urmilesh Jha is proved by Ext. 18(a). Shri Urmilesh Jha has admitted his

signature in that exhibit; but he stated that he had sent a blank form with his letter which was filled up at the polling booth. P.W. 39 has, however, stated that he signed the form in the presence of Shri Urmilesh Jha. There is thus oath against oath on the question as to where the polling agent appointment form was signed by this witness. But even if it could not be said with certainty as to where that form was signed by the witness, it appears that he had, in fact, worked as a polling agent for the appellant at Chainpur booth. Not even a suggestion has been made anywhere to any of the petitioners' witnesses that anyone also worked as the polling agent at that booth. It has also been contended on behalf of the appellant that from the manner Ext. 15 was introduced into the case by P.W. 39, it was clear that he was a partisan witness. According to the appellant, Ext. 15 was forged letter and, in fact, Shri Urmilesh Jha has denied to have written any such letter. I find, however, that there is no substance in this contention as well. Apart from the intrinsic evidence appearing on the face of the letter itself showing that it had been posted at Saharsa on the 10th February, 1962 and had been received at Balubazar on the 13th February, 1962, thereby showing that it could not have been fabricated for the purpose of the election petitions, it appears to me that the very fact that this letter was first introduced during the course of cross-examination goes a long way to establish its genuineness. It is difficult to believe that if this letter was a forged one, the petitioners would not have taken the precaution of summoning this witness with a direction to produce such letter or letters which he might have received from Shri Urmilesh Jha; and in that case, it is quite obvious that the letter would have been brought on the record during his examination-in-chief. A person, who forges a letter for the purpose of using the same in support of his case, and there is no doubt that upon the contents of Ext. 15 it went a long way to support the case of the petitioners that the campaign during the election on behalf of the appellant was being run on the caste lines, cannot leave it to be produced on the off-chance of the cross-examining lawyer asking the witness to produce the same. In the circumstances, it is impossible to accept the suggestion that Ext. 15 was a forged document and had been fabricated for the purpose of the election petitions. In my opinion, therefore, the Tribunal has given cogent reasons for holding that P.W. 39 was a competent and reliable witness. In regard to the next witness, it may be noted at the very outset that no specific comment has been made on his evidence. It is however true that it has been contended in a vague manner that the Tribunal should not have placed reliance on the evidence of this witness. Regarding his competency to prove the handwriting of Shri Urmilesh Jha, there could be no doubt. He had produced as many as seventeen letters marked Exts. 16 series which were written to him regarding party affairs and its organisational matters by Shri Urmilesh Jha, and the latter has not denied to have sent those letters. It has also been admitted by Shri Urmilesh Jha that P.W. 42 was for some time the Joint Secretary of the Socialist Party at Saharsa alongwith him. In the circumstances, it is clear that he was a person who had ample opportunity to be acquainted with the handwriting of Shri Urmilesh Jha. Regarding his credibility as well, nothing has been pointed out why he should not have been believed. There might have been ideological differences between him and the appellant, but that was no ground to discredit this witness. The suggestion that he had come to falsely depose in this case, because he was on good terms with respondent No. 3 on account of his having taken a Brahmin lady as his second wife, remained unsubstantiated. Having read the evidence of these two witnesses, to which I need not refer in detail because they have been dealt with by the Election Tribunal in full, I am satisfied that the view of their evidence which has found favour with the Tribunal was quite correct. The importance of direct evidence of witness on the question of the genuineness of documents cannot be over-emphasised. Under section 47 of the Evidence Act, any writing may be proved by the opinion of any person who is acquainted with the handwriting of the man alleged to have written the document. It has long been recognised in England as well as in this country that this kind of opinion was for various reasons better than expert evidence. It was observed by Patteson, J. in Dal V. Suckermore (5 A. & E. 703) that:

"The knowledge of the general character of any person's writing which a witness has acquired incidentally and unintentionally, under no circumstance of bias or suspicion, is far more satisfactory than the most elaborate comparison of even an experienced persons, called by one side or the other with a particular object."

and there is no doubt that one of the ways in which the knowledge of a person's handwriting may be acquired is by the witness having seen, in the ordinary course of business, documents which on evidence, direct or circumstantial, are proved to have been written by such person. This being the position, it is not surprising that learned Counsel for the petitioners laid great stress on the evidence of P.Ws. 39 and 42 and urged that that evidence by itself constituted sufficient

material for the Tribunal's finding that the writings in Exts. 6(b) and 6(c) together with the signatures therin were in the handwriting of Shri Urmilesh Jha. In my opinion, he was fully justified in doing so.

It was, however, contended on behalf of the appellant that, in fact, the writings in Exts. 6(b) and 6(c) were different from the admitted writings of Shri Urmilesh Jha, and the Tribunal should have acceded to the prayer made on his behalf to get the disputed writings compared with the admitted ones by a hand-writing expert so that the difference between the disputed and the admitted writings could be brought out clearly. It has been urged that it was not proper for the Tribunal to have come to a conclusion of its own on a comparison of the disputed writings with the disputed ones without the aid of an expert. It is clear to me, however, that the Tribunal, in the present case, was fully justified in rejecting the appellant's prayer for the calling for a report from a handwriting expert in regard to the genuineness or otherwise of the disputed documents. It was also justified in rejecting the prayer of the appellant to examine a handwriting expert as a witness on his own behalf so as to enable that expert to examine the disputed documents and compare them with the admitted writings in court. Exts. 6(b) and 6(c) were proved by P.W. 3 on the 4th March, 1963. If the appellant was really serious in getting the disputed writings examined by an expert or their photographic enlargements made and sent to an expert, he would have taken prompt steps in that direction, much earlier than the 22nd June, 1963, when the case was almost coming to an end. On that day, it is true that the appellant filed a petition praying for photographic enlargements to be made of the disputed documents and for sending the same to a handwriting expert. It was quite clearly a belated application. The second application which the appellant filed on the 4th July, 1963 was for being allowed to examine a handwriting expert on his behalf on the following day. I agree with the contention of Shri Awadhesh Nandan Sahay, who appeared for the petitioners in these appeals, that this second application constituted a desperate attempt on the part of the appellant to bring on the record partisan evidence in support of his case that the disputed writings were not the writings of Shri Urmilesh Jha. The very fact that the appellant moved this application just a day before the date on which he offered to examine a hand-writing expert as a witness on his own behalf goes to suggest in my opinion that when the appellant's prayer made on the 22nd June, 1963 had been rejected, he took recourse to getting a handwriting expert ready and prepared to step into court the very next day. In the circumstances, I am satisfied that the Tribunal was justified in rejecting the appellant's prayer for examining a handwriting expert on his behalf. In this connection, relying on certain observations made in *Kessarbai v. Jethabhai Jivan* (A.I.R. 1928 Privy Council 277), Darshan Singh v. Parbhu Singh (A.I.R. 1946 Allahabad 67) and *Saurendra Mohan Basu v. Saroj Ranjan Sarkar* (A.I.R. 1961 Calcutta 481, F.B.), it was urged on behalf of the appellant that assuming without admitting that the applications filed on behalf of the appellant praying for the examination of the disputed writings by a handwriting expert were belated, still the Tribunal was not justified in rejecting them, because it was well settled that it was not desirable for a judge to embark upon a comparison of the disputed writings with the admitted ones without the aid of the evidence of a handwriting expert inasmuch as a comparison of the handwriting as a mode of proof was at all times hazardous and inconclusive, and the risk in coming to a finding on such comparison would obviously increase if the comparison is made by a person who was not conversant with the subject and had been done unaided by the evidence of experts. I, however, find myself unable to uphold this contention. In the first place, none of the decisions go to that length as suggested by the appellant and are consequently of no assistance to him. The following observation of Lord Atkin in *Kessarbai v. Jethabhai Jivan* (A.I.R. 1928 Privy Council 277) at page 281, referred to on behalf of the appellant, it is claimed, supports him. Lord Atkin observed as follows:

"But their Lordships are unable to come to the same conclusion as the members of the appellate Court. They would have thought it unsatisfactory and dangerous in any event to take a decision in such a case as this on the correct determination of the genuineness of a signature by mere comparison with admitted signatures, especially without the aid in evidence of microscopic enlargements or any expert advice."

This observation, however, in my opinion, should be read along with the following observation which his Lordship made immediately thereafter. The subsequent observation read as follows:—

"But their Lordships have also themselves carefully compared the endorsements with the admitted signatures, and they are unable to feel

the certainty which was expressed by the Chief Justice. The signatures appear to be written with different ink and possibly at different times, and though the purported signature of the firm bears a close resemblance to some of the genuine examples produced, notably to a signature in a letter of authority addressed to Jethabhai himself, the purported signature of Keshavlal himself is by no means convincing."

The above observation shows quite clearly that their Lordships of the Privy Council despite their observations made earlier, themselves compared the signatures in that case; and accordingly, reading the two observations together it appears to me that the previous observation, quoted above, does not support the plea that in the absence of expert evidence on the question of genuineness or otherwise of the disputed documents, the Court could not use its own eyes and compare for itself the disputed writings with the admitted ones. The decision in *Darshan Singh v. Parbhu Singh* (A.I.R. 1946 Allahabad 67) is also of no assistance to the appellant. In that case, one of the questions for decision was whether the signature of one Hazari Singh on a particular deed was genuine or not. The plaintiff on whom rested the burden to prove that the signature was a forgery had failed to examine any expert. That gap the trial Judge had filled in by comparing the disputed signature with the admitted signature of Hazari Singh on another document in his chambers behind the back of the lawyers appearing in that case and had come to a certain conclusion based on such comparison. While dealing with the above procedure which the trial Judge had adopted, the High Court made the following observation:

"The least that the Learned Civil Judge should have done was to have sought the assistance of the lawyers concerned in comparing the two signatures and arriving at his conclusions."

and in that connection reference was made to the observations of Sir Lawrence Jenkins in *Barindra Kumar v. Emperer* (I.L.R. 37 Calcutta 467) at page 503, wherein the procedure of embarking upon a comparison of disputed writings with admitted ones without having invited or heard arguments from Counsel on the point was deprecated in a strong terms. This Allahabad decision, therefore also shows that there was no bar to the Court comparing disputed writings with admitted ones for itself; only it should always do so in the presence of and with the assistance of lawyers appearing in the case. The observations made in *Saurendra Mohan Basu v. Saroj Ranjan Sarkar* (A.I.R. 1961 Calcutta 461, F.B.) as well read in the context of the facts of that case do not afford any assistance to the appellant. In that case, evidence of a large number of witnesses who were competent to prove the disputed writing and signature had been given. A handwriting expert had also given his opinion on the question. The learned Chief Presidency Magistrate, before whom all these materials were available, had, however, come to a conclusion of his own on a comparison of the disputed writings and signatures with some admitted ones and had wholly ignored, without giving any reason therefor, other materials bearing on that point. It was in that connection that it was observed that "while it is competent on the part of a judge or a Magistrate to compare the disputed signatures with the admitted signature for himself, vide S. 73 of the Indian Evidence Act, it is unsafe to rely entirely on such personal comparison". In the present case, as will be shown hereafter, neither the comparison which was made by the Tribunal has been done without the assistance of the lawyers appearing for the parties, nor can it be said that the finding on the question of genuineness or otherwise of the writings in Exts. 6(b) and 6(c) was based entirely on such comparison. Therefore, in my opinion, the observations in Allahabad and Calcutta decisions, referred to on behalf of the appellant, far from being of any assistance to the appellant, really go to justify the correctness of the approach of the Tribunal. Reference was made on behalf of the petitioner respondents to a Bench decision of the Calcutta High Court in the case of *Bisseswar Poddar v. Nabawip Chandra Poddar* (A.I.R. 1961 Calcutta 300). In that case, after referring to various English and Indian decisions including the decision in A.I.R. 1928 Privy Council 277, their Lordships, by concurrent but separate judgments, came to the conclusion that there was no legal bar to the Judge using his own eyes to compare disputed signatures with admitted signatures even without the aid of any evidence of a handwriting expert. I am in respectful agreement with the view expressed in this case and with the reasons assigned for the same. It will, therefore, follow that there was nothing wrong with the Tribunal in rejecting the appellant's belated applications for examination of a handwriting expert and in comparing the disputed writings with the admitted ones in the presence of and with the assistance of the lawyers appearing for the parties. This contention, therefore, must fail.

In this Court as well, elaborate submissions were made by learned Counsel appearing for the parties on the question of identity or otherwise of the writings and signatures in Exts. 6(b) and 6(c) with those on the admitted documents. The admitted signatures and writings of Shri Urmilesh Jha were in Exts. 17, 18, 18(a), 16 series and on the deposition of Shri Jha before the Tribunal and finally on Exts. C and C/1. The last two were the only documents which had been produced on behalf of the appellant through Asheshwar Goit (appellant's witness No. 55) showing the writings of Shri Urmilesh Jha; but as both of these documents had come into existence after the filing of the election petitions, no notice was taken thereof by the Tribunal and no reference was made to them at the hearing in this Court. It has been strenuously urged on behalf of the appellant that upon a careful and close scrutiny and examination of the disputed writings and of the admitted ones, it will appear that neither the signatures on Exts. 6(b) and 6(c) nor the writings therein were in any way similar to the admitted signatures or writings of Shri Urmilesh Jha. On the other hand, Shri K. P. Verma, one of the lawyers appearing for the petitioners, placed before this Court practically each of the letters comprised in Exts. 16 series and the signatures on Exts. 17 and 18 and urged that an examination of the admitted writings and signatures revealed the permanent and significant characteristics of the writings of Shri Urmilesh Jha, and it was contended that the same characteristics were unmistakably noticeable in the disputed documents; and, as such, there was no reason to interfere with the finding of the Tribunal that the writings and signatures in Exts. 6(b) and 6(c) were in the hand of Shri Urmilesh Jha. Before indicating my reasons for agreeing with the finding of the Tribunal on this question, it may be useful to point out that the true test to be applied in such cases, as I comprehend it, is to consider the general character of the two writings sought to be compared and not to lose oneself in scrutinising the formation of each individual letter. In *Deo. v. Suckermore* (111 E.R. 1331), Coleridge, J. Observed as follows:

"The test of genuineness ought to be the resemblance not to the formation of letters in some other specimen or specimens but to the general character of writing which is impressed on it as the involuntary and unconscious result of constitution, habit or other permanent cause, and is, therefore, itself permanent."

It is not uncommon to find differences in the writing of one and the same persons even after a short interval of time. It all depends upon so many extraneous circumstances—the pen, the ink, the paper, the posture of his hand and the general conditions in which writes. It is for this reason that the law merely requires a consideration of the general character of the two writings. Applying this test to the task in the present case, I have no hesitation in coming to the conclusion that the writings in Exts. 6(b) and 6(c) as well as in Exts. 16 series disclose various similar, permanent and significant characteristics. The presence of common characteristics in both the writings quite clearly goes to establish that both Exts. 6(b) and 6(c) were in the hand of Shri Urmilesh Jha. In the present case, on account of a large number of admitted documents being available, it can be said that it was comparatively easy to pick out a number of characteristics without the help of enlargements. This feature of the case naturally lends greater weight to the conclusion reached as a result of the comparison than is ordinarily possible. Without going into greater details, it will suffice to mention that Shri Urmilesh Jha seems to have a characteristic way of writing “ଆ”, “କ୍ଷ”, “ତ୍ର୍ଯୁ”, “ଫ୍ରେଂଟ୍” and “ମ୍ବ୍ରେନ୍ଟ୍” in Ext. 16/q is also of the same type as in Ext. 16(c). Keeping in view the presence of several common characteristics in the writing in Exts. 16 series and in Exts. 6(b) and 6(c), I am inclined to hold that the general character of the writings in the admitted as well as in the disputed documents was the same; and, in the circumstances, no importance can be attached to certain differences pointed out by the learned Counsel appearing for the appellant in the formation of some of the letters. For instance, it was pointed out that the letter “ତ୍ର୍ଯୁ” had been written in Exts. 16 series in one pen operation with no particular stress on the vertical strokes downward, but in Exts. 6(b) and 6(c) the word “ତ୍ର୍ଯୁ” had a pronounced vertical strokes. Likewise, the word “ମ୍ବ୍ରେନ୍ଟ୍” in Exts. 6(b) and 6(c), it was pointed out, had been written in two pen operations; but in Exts. 16 series “ମ୍ବ୍ରେନ୍ଟ୍” almost looks like a straight line. In the form of “ଫ୍ରେଂଟ୍” also, it was pointed out that whereas in Exts. 16 series “ଫ୍ରେଂଟ୍” had a neat loop at the top, but in Exts. 6 series it showed a conical top. Lastly, it was urged that in the word “ଆପକେ”, the headline did not extend to “ଆପକେ” in Exts. 16 series; but it was otherwise

in Ext. 6(c). With reference to the signatures on Ext. 6(c) and within brackets on Ext. 17, it was urged that while the upper loop of "3" in Ext. 6(c) was nil and the second loop of that letter is that exhibit had a trailing and, " " in Ext. 17 had equal loops. Attention was also invited to the difference in aperture in "F" in letter "F" as occurring in Ext. 6(c) and in Ext. 17, and it was urged that whereas in Ext. 6(c), the aperture was like the English letter "V" there was no such aperture noticeable in "F" in Ext. 17. In view, however, of what I have mentioned already in regard to the similarity of the general character of the writings and to the presence of several common characteristics in both the writings—disputed as well as admitted ones, I do not feel inclined to accept the minor differences in the formation of certain letters pointed out on behalf of the appellant as offering a safe criterion for coming to a conclusion, one way or the other, on the question at issue. In my opinion, the permanent, fixed or significant characteristics, personal to Shri Urmilesh Jha, being strikingly similar in the disputed as well as the admitted writings, there is no escape from the conclusion that the writings in Exts. 6(b) and 6(c) were in the hand of the same person who had written the various letters (Exts. 16 series). The same considerations apply to the signatures on Exts. 6(b) and 6(c). The Tribunal has found that the signatures on Exts. 6(b) and 6(c) do not tally with the admitted signatures of Shri Urmilesh Jha in his deposition and in Exts. 18 and 18(a) or with the signatures appearing in the letters (Exts. 16 series); but it has held that it tallies with that signature on Ext. 17 which had been put within brackets. It has been further pointed out that it was clear from Ext. 17 itself that Shri Jha had two styles of signature—one conventional body writing style and the other individualised distinctive signature; and that the signatures on Exts. 6(b) and 6(c) were of the first type. Whatever may have been the reason which might have impelled Shri Jha to put on Exts. 6(b) and 6(c) his signatures in the conventional style, the fact remains that even on the formation of the letters of the signatures in the conventional style, the fact remains that even on the formation of the letters of the signatures on Exts. 6(b) and 6(c) and on Ext. 17 put within brackets, there can be no doubt that they are similar. The case that since 1960 in pursuance of an alleged resolution passed at a conference of the Socialist Party at Ujjain directing members of the Socialist Party to drop the top lines in their writings, Shri Urmilesh Jha had discontinued to give lines at the top of his writings was sought to be established by producing Exts. C and C/1 which did not contain top lines. These letters, however, as pointed out earlier had been written after the filing of the election cases and the Tribunal rightly did not attach any importance to them. On the other hand, letters (Exts. 16 series) all contain top lines. It was, therefore, incumbent on the appellant to establish by cogent evidence that a resolution of the type, as alleged by Shri Urmilesh Jha, had actually been passed, and that his writings after 1960 did not contain top lines. It has been established that Shri Urmilesh Jha was actively concerned with the affairs of the Socialist Party, at least in the district of Saharsa, and was holding one or another important office in the party organisation at Saharsa. It is impossible to believe that his writings of the year 1960 onwards until before the present election cases were filed, were not available. In the circumstances, I am, inclined to take the view that such writings were deliberately suppressed and, if produced, would have gone counter to this part of the appellant's case. In this context, it is significant to note that what was produced was only two letters, supposed to have been written by Shri Urmilesh Jha to Shri Asheshwar Goit after the present election cases had been filed. In my opinion, therefore, the case that Shri Urmilesh Jha had discontinued writing with top lines was introduced only with a view to show that the writings in Exts. 6(b) and 6(c) which had top lines could not be in the hand of Shri Urmilesh Jha. This case of the appellant, therefore, has rightly been rejected. In the result, the finding of the Tribunal that a comparison of the disputed writings and signatures with the admitted writings and signatures of Shri Urmilesh Jha established that both Exts. 6(b) and 6(c) were genuine documents and had been written by Shri Urmilesh Jha must be affirmed.

In this connection, it was further contended on behalf of the appellant that the Tribunal should have held that Shri Urmilesh Jha was not at Saharsa on the 6th February, 1962, the covering letter (Ext. 6/c) could not have been written by him from Saharsa on the 6th February, 1962. In support of this contention, reference was made to that portion of the evidence of Shri Urmilesh Jha where he had stated that Shri Madhu Limaya, a Party leader, had toured in the State of Bihar from the 31st January to the 16th February, 1962, and that he had accompanied him during his entire tour and went to all the places he visited; and that on the 6th February, 1962 he and Shri Madhu Limaya were together at Parbatha in the district of Monghyr. It was urged that this part of the evidence of Shri Jha having been corroborated by Shri Madhu Limaya himself as witness

No. 66 on behalf of the appellant and by Shri Ramsewak Singh, witness No. 35 for the appellant, who was a Socialist M.L.A., from Dinapur constituency, the Tribunal should have accepted the case that, in fact, Shri Urmilesh Jha was not at Saharsa so as to be able to write Ext. 6(c) on that date. In my opinion the Tribunal has rightly pointed out that even if it were accepted that Shri Jha accompanied Shri Madhu Limaye on a tour of the State of Bihar, as claimed by him, it was not at all conclusive, and it was still possible for Shri Jha to have written Ext. 6(c). Moreover, I am not satisfied that the evidence of Shri Madhu Limaye or that of Shri Ramsewak Singh affords any corroboration at all; the former has admitted during the course of his cross-examination that he did not remember on which date he visited which place and who was with him at which place, and the evidence of the latter showed that he could hardly say who were actually with Shri Madhu Limaye at places other than at Patna and Dinapore. In any case, the possibility of Shri Jha having mentioned Saharsa even though he might have written Ext. 6(c) from some other place, either because the letter was being written on the printed letter head of the Saharsa branch of the party or because Saharsa was his permanent address cannot be ruled out. This contention, therefore, must fail.

The Tribunal, it will be seen, has also taken note of certain circumstances, which are certainly inconsistent with Exts. 6(b) and 6(c) being forgeries. It has, for instance, pointed out that it was extremely unlikely that if respondent No. 3 had got these documents forged for the purpose of the election petitions, the forger would have taken the risk of greater exposition by undertaking to forge the whole of the letter (Ext. 6/c); a forged signature merely would have sufficed the purpose. Another circumstances more or less coercive, was that the printed leaflets were in existence several days before the election; and surely if this finding was correct, it was absurd to suggest as appears to have been the appellant's case that respondent No. 3 was in any manner responsible for bringing these documents into existence and for getting them printed for the purpose of the election petitions, for before the polling had commenced he could hardly have anticipated that he would lose the election. These circumstances, in my opinion, irresistibly point to the conclusion that respondent No. 3 had nothing to do with either Ext. 6(b) or Ext. 6(c) and that they could not be forgeries. Lastly, it was urged before the Tribunal as also in this Court that in a normal order for printing it would be unusual to find statements like those which have been made in Ext. 6(c). It was contended that it was not at all necessary, for instance, to say that Bhupendra Babu, namely, the appellant, had expressed a desire that the leaflet be printed outside Saharsa or to say that the consent of the signatories to the manuscript had been obtained, and the very fact that such statements were contained in Ext. 6(c) went to show that it had been brought into existence by interested persons for the purpose of the election cases. It may be conceded that ordinarily in an order for printing, it was perhaps unnecessary and unusual to find such statements, but, as has been rightly pointed out by the Tribunal, because of the restrictions imposed by section 127A(2)(a) of the Act on the press, the statements complained of were necessary to be made for the satisfaction of the Press itself, and, accordingly, there was nothing unusual in Ext. 6(c) containing these statements. This contention must also, therefore, fail. In conclusion I find that it must be held that the writings in Exts. 6(b) and 6(c) including the signatures thereon were in the hand of Shri Urmilesh Jha and were thus genuine documents.

It was next contended that the Tribunal had erred in holding that the offending leaflets were in existence several days before the polling had started and had been brought into such existence at the instance of Shri Urmilesh Jha who had got 5,000 copies thereof printed at the Mithila Art Press, Darbhanga. It has been urged on behalf of the appellant that the evidence on which the Tribunal has placed reliance was by no means reliable, rather a close scrutiny and proper appreciation thereof will reveal that some of the important documents on which the petitioners sought to rely had been really brought into existence for the purpose of this case, and the oral evidences adduced was interested and partisan and, therefore, not at all worthy of acceptance. In my opinion, there is no substance in this contention. In the first place, the finding that it was Shri Urmilesh Jha who had got the leaflets printed is fully consistent with the finding reached earlier that both the manuscript of the offending leaflet (Ext. 6/b) and the covering letter (Ext. 6/c) addressed to the Manager of the Press enclosing the said manuscript were in the hand of Shri Urmilesh Jha. Indeed, on the finding that Exts. 6(b) and 6(c) were genuine documents, it will be futile to contend that anyone else than the author and writer of those documents had got the leaflets printed. In the second place, I am satisfied that besides examining certain respectable witnesses the petitioners have produced documentary evidence of unimpeachable character in support of their case that it was Shri Urmilesh Jha who had sent the manuscript (Ext. 6/b) through the hands of

one Shri Bhuneswar Biswas for printing 5,000 copies thereof to the Mithila Art Press, Darbhanga, and that the Press having printed 5,000 copies as per the order for printing received from Shri Jha delivered those copies to Shri Bhuneswar Biswas on the 9th February, 1962 thereby bringing the printed leaflets into existence several days before the polling had started. The Tribunal was, in my opinion, fully justified in accepting the petitioners' case and the evidence adduced in support thereof. It has accepted the evidence of Shri Ramakant Misser, the Manager of the Mithila Art Press, on the point that the manuscript of the leaflet with the letter of Shri Urmilesh Jha asking him to print 5,000 copies thereof had been brought to the Press by Shri Bhuneswar Biswas, that he had taken the signatures of Shri Bhuneswar Biswas and one Tarakant Jha on the bottom of the second page of the manuscript and that he had delivered the printed copies to Shri Bhuneswar Biswas and had received payment of the bill for printing charges from him. It will be noticed that it was Shri Ramakant Misser (P.W. 3) who had produced Exts. 6(b) and 6(c) and had also produced the proof copy (Ext. 6/a) and the final copy (Ext. 6) of the leaflet. He had also produced the order form of the Press which contained the carbon copy of the receipt dated the 9th February, 1962 (Ext. 6/1) issued in the name of Shri Urmilesh Jha and bearing the signature of Shri Bhuneswar Biswas in token of having received 5,000 copies from the Press. His evidence finds support from the evidence of P.Ws. 39 and 42, who have satisfactorily proved the signature of Bhuneswar Biswas on Ext. 6/b. It also finds support from the letter (Ext. 6/d) which this witness claimed to have sent to the District Magistrate, Darbhanga, with two copies of the printed leaflets enclosed therewith (Exts. 6/e and 6/f) and which had been called for from the District Magistrate and had been produced by P.W. 1, an Assistant in the office of the District Magistrate, Darbhanga. The evidence of Shri Ramakant Misser was, however, commented upon on various grounds. The first ground urged was that he was a partisan witness, because he was the Manager of a press which was under the control of the brother of respondent No. 3. There is no substance in this ground. It is true that in execution of a decree obtained against Shri Kamal Narain Mishra, a brother of respondent No. 3 and some others, the decree holder attached the Mithila Art Press, suggesting that Shri Kamal Narain Mishra had an interest in that Press; but it appears from Ext. 25(F), a certified copy of the judgment in Title Suit No. 75 of 1957, that one Lachhman Jha succeeded in obtaining a declaration that he was the sole proprietor of the Mithila Art Press and that the judgment debtors including Shri Kamal Narain Mishra had no interest in the same. Exts. 26 and 26(a), which are the certified copies of the declaration filed under the Press and Registration of Books Act regarding this Press, show that one Sobhanand Jha has been keeper of this Press since the 13th of November, 1956, and Shri Ramakant Misser was the printer and publisher thereof since that date. This Sobhanand Jha is a brother of Lachhman Jha who had obtained a declaration in the favour in the aforesaid Title Unit No. 75 of 1957. In face of these documents, it must be held that the brother of respondent No. 3 had no interest in or control over this Press and, as such, this ground against the evidence of Shri Ramakant Mishra must fail. The second ground on which it was urged that the evidence of Shri Ramakant Misser should not be believed was that his story that Exts. 6(b) and 6(c) had been brought to him by Bhuneswar Biswas and Tarakant Jha should not have been believed in the absence of the evidence of those two persons; and it was suggested that as both Shri Bhuneswar Biswas and Shri Tarakant Jha were under the control of respondent No. 3, it was extremely improbable that Shri Urmilesh Jha would have utilised their services in sending Exts. 6(b) and 6(c) to the Press. Regarding Bhuneswar Biswas, no direct evidence on behalf of the appellant was adduced to show that he was under the control of respondent No. 3 or of his supporters. An attempt was, however, made towards the close of the day's proceeding on the 9th July, 1963 to convince the Tribunal on the basis of the place where Shri Bhuneswar Biswas was alleged to be sitting during the cross-examination of the appellant that he was in the camp of respondent No. 3 and that he should be examined as a court witness. The Tribunal rejected this prayer by order dated the 10th July, 1963 in the following words:

"The respondent No. 1 filed a petition yesterday praying that one Bhuneswar Biswas present in court might be examined as court witness because he was sitting with the petitioner. To this two counter petitions are filed to-day by petitioner and the respondent No. 3. A further petition on the point is filed to-day by the respondent No. 1. When neither party wants to examine him as a witness I do not see why the court should examine him as a court witness. The prayer of respondent No. 1 to that effect is rejected."

A perusal of the petitions and counter-petitions filed in connection with the place where Shri Bhuneswar Biswas was alleged to be sitting in the morning of the 9th July, 1963 would show that while the appellant persisted in alleging that

Bhubneshwar Biswas was sitting with the man of respondent No. 3, the petitioners and respondent No. 3 went on asserting that, in fact, he was sitting immediately behind a maternal uncle of the appellant and that it was wholly untrue to say that he was in the camp of respondent No. 3 or that of his supporters. In the circumstances, it may be difficult to be positive as to the exact place where Shri Bhuneshwar Biswas was sitting in court in that morning, but the fact remains that it was the advocate of the petitioners who drew the attention of the appellant during his cross-examination and asked him to say if Bhuneshwar Biswas was present in court. That itself, in my opinion, is suggestive of the fact that Shri Bhuneshwar Biswas had not come into the court that day with or at the instance of the men of respondent No. 3. The limit to which the appellant could go in this connection is evident from another petition which he filed on the 22nd July, 1963. Recording of oral evidence had been closed on the 12th July, 1963, and the last witness being witness No. 67 for the appellant had been examined and cross-examined. The Tribunal had adjourned the case to the 22nd July, 1963 for argument. On this date, the appellant came forward with an application saying that:

"That after the hearing was adjourned and Urmilesh Jha tried to contact Bhubneshwar Biswas through his friend Sri Sukhdeo, but he was informed by Sukhdeo that Bhubneshwar would not go against Sri L. N. Mishra, and that he had written a letter to him long ago to that effect and on being requested Sukhdeo handed over the letter to Sri Urmilesh Jha which is being filed herewith."

and, a prayer was made to recall Shri Urmilesh Jha so that the said letter purported to have been written by Shri Bhubneshwar to Sukhdeo could be proved. The Tribunal, in my opinion, rightly rejected this prayer. It was on the face of it an extremely belated and a much too feeble attempt to show that Shri Bhuneshwar Biswas had been gained over by respondent No. 3. The suggestion that respondent No. 3 had got a theft case filed against Shri Bhuneshwar Biswas to put pressure on him so that he could not go against him was made in the appellant's petition filed on the 10th July, 1963, on the very day following the day on which Shri Bhuneshwar Biswas had been seen present in court; but nothing was done to substantiate that suggestion. I am, accordingly, of the opinion that there is nothing on the record to suggest that Shri Bhuneshwar Biswas was in the camp of respondent No. 3 or that of his supporters. On the other hand, there is ample material on the record to show that he was very much in the camp of the appellant, and it was for the appellant to examine him on his own behalf to refuse the evidence of Shri Ramakant Mishra. In the first place, it was admitted by witness No. 55, Shri Asheshwar Goit, that Shri Bhuneshwar Biswas was a member of the Socialist Party up to 1959. He however, added that he did not do any work for that party during 1962 election, and that the signature on Exts. 6(b) and 6(1) were not of Shri Bhuneshwar Biswas. He, however, admitted in cross-examination that a list of the members of the Saharsa District was with the District Secretary; and, it was open to the appellant to produce that last and show that Shri Bhuneshwar Biswas did not continue to be a member of the Socialist Party after 1959. That list not having been produced, the only inference must be that if it had been produced, it would not have been in conformity with the appellant's case that Shri Bhuneshwar Biswas had ceased to be a member of the Socialist Party after 1959. In fact, on the documents filed on behalf of the petitioners there can be no doubt that Shri Bhuneshwar Biswas was actively working for the Socialist Party in 1962 election. Ext. 18, for instance, shows that he was a polling agent for the appellant at booth situated at L.P. School, Bhimpur. It appears that he has signed the appointment form (Ext. 18) agreeing to act as an agent as also the declaration required to be made by a polling agent on the 23rd February, 1962 in the presence of the Presiding Officer. That was one of the days for polling, and it has not been shown on behalf of the appellant that anyone else than Bhuneshwar Biswas had worked as a polling agent at that booth. The disclaimer of Shri Urmilesh Jha that he had not appointed Shri Bhuneshwar Biswas as a polling agent is, accordingly, of no avail. The next important document in this connection is Ext. 27, a certified copy of the order sheet of a criminal case. It shows that more than a year after the election, on the 22nd April, 1963, Shri Asheshwar Goit, witness No. 55 for the appellant stood surety for Shri Bhuneshwar Biswas, vide Ext. 27(a). In these circumstances, I have no reason to differ from the finding of the Tribunal that Shri Bhuneshwar Biswas was completely under the control of the appellant and his supporters. Regarding Tarakant Jha as well, there was no evidence to show that he was connected with respondent No. 3. He may have deposited for the brother of respondent No. 3 in the year 1964, and it may be true that he was a publisher and proprietor of a magazine called "Bideh", of which the editor was a Congress man, but these circumstances were hardly sufficient to establish that he was connected with respondent No. 3; nor does Ext. H, in my opinion, show

anything of the kind. This exhibit merely shows the extent to which he could go and sacrifice he was prepared to make in the interest of having a competent and desirable candidate elected to the Legislature, and the party affiliation of the candidate was of little consequence. There is also nothing to show that he belonged to the camp of the appellant. The mere fact that the magazine 'Bideh', owned by him, published articles of the leaders of the Socialist Party was not sufficient to show that he was in the camp of the appellant. It appears that he was also connected with another paper 'Darbhanga Samachar' which used to be printed at times at the Mithila Art Press and was thus known to Shri Ramakant Mishra. It is quite likely that his presence at the Press either because he had accompanied Shri Bhuneswar Biswas who had carried Exts. 6(b) and 6(c) or that he had just dropped at the moment when Bhuneswar Biswas had come in was availed of by Shri Ramakant Mishra and his signature was also obtained on Ext. 6(b). He, not being the bearer of the letter or of the manuscript, was however, not a material witness, and no adverse inference could be drawn against the petitioners for not examining him.

It was also urged on behalf of the appellant that no reliance should have been placed on Ext. 6(1), showing delivery of the leaflet to Shri Bhuneswar Biswas, because the whole bill book was a fabricated document. Reliance was sought to be placed in this connection on Ext. H which showed that a supplementary edition of 'Darbhanga Samachar' of the 14th February, 1962 had been printed at Nirman Press and, accordingly, there could be no bill for the printing of 'Darbhanga Samachar' of that date from the Mithila Art Press, and by a petition dated the 25th July, 1963 filed during the course of the arguments before the Tribunal, a prayer was made that a bill dated the 12th February, 1962 showing delivery of 'Darbhanga Samachar' on the 14th February, 1962, contained in the bill-book of the Mithila Art Press should be marked as an exhibit in the two election petitions without requiring any formal proof. It appears that this particular bill had been referred to by the advocate for the appellant during his argument on the previous day. The Tribunal, however, rejected the prayer for marking the bill dated the 12th February, 1962 in regard to the delivery of 'Darbhanga Samachar' on the 14th February, 1962 as an exhibit. Nonetheless, that particular bill appears to have been included at page 135 of Volume II of the Paper Book prepared in these appeals. Strictly speaking, no notice can be taken of that document, but even if it were assumed that that document was validly on the record, in my opinion, it is of no assistance to the appellant. The bill dated the 12th February, 1962 was in respect of the regular edition of "Darbhanga Samachar" of the 14th February, 1962 and not in respect of the supplementary edition of that paper of that date. Ext. 6(1) thus stands and shows quite clearly that the printed copies of the leaflet were delivered to Shri Bhuneswar Biswas. All the comments against the evidence of Ramakant Mishra (P.W. 3) having failed, his evidence has rightly been accepted by the Tribunal, and it has rightly been held that it was Shri Urmilash Jha who had sent the manuscript (Ext. 6/b) for printing through the hand of Shri Bhuneswar Biswas who belonged to the Socialist Party and who later worked as a Polling Agent of the appellant and that the Press delivered 5,000 copies of the printed leaflets to the aforesaid Shri Biswas.

Now, as to the finding of the Tribunal that the leaflets were in existence several days before the polling had commenced, it will appear that besides Ext. 6(1), discussed above, which shows that the printed leaflets had been delivered to Shri Bhuneswar Biswas on the 9th February, 1962, the Tribunal has mainly relied on Exts. 6(d) and 6(b) and on the evidence of P.Ws. 14, 15, 34 and 40. In regard to Ext. 6(d), a letter dated the 10th February, 1962, from Ramakant Mishra to the District Magistrate, Darbhanga, enclosing two copies of the printed leaflets (Exts. 6/e and 6/f), it was suggested to P.W. 3 Ramakant Mishra that this letter and its enclosures were subsequently and surreptitiously smuggled into the office of the District Magistrate.

The learned Counsel for the appellant has laid stress on the fact that no entry about the receipt of any such letter could be discovered in the receipt book of English correspondence maintained in the District Magistrate's office when the same was examined by a Deputy Magistrate, Darbhanga, under the directions of the District Magistrate in the presence of the appellant and his agent. He also pointed out that neither the appellant was granted a certified copy of the entries in the receipt register nor was the register itself produced before the Tribunal to enable the appellant to establish that, in fact, there was no relevant entry in the registers maintained in the District Magistrate's office about this letter. His further comment was that no despatch register or the peon book had either been produced from the custody of the Press showing the despatch or receipt of any such letter. It will, however, be seen that the noting on the top of this letter shows its receipt in the District Magistrate's office on the 20th February, 1962,

and in fact this letter was produced from the District Magistrate's office by a clerk of that office who was the very first witness examined on behalf of the petitioners. If respondent No. 3 or someone acting on his behalf was so resourceful as to be able to subsequently shove in this letter and its enclosures into the office of the District Magistrate he would have, in all likelihood, seen to it that there was no such a big gap between the date of the letter and the date of noting of its receipt in the office, and would have arranged to get the noting made at the top of the letter showing the receipt of the letter either on the same day, that is, 10th, or within a day or two thereof. It appears to me that either the letter dated the 10th February, 1962 was actually sent from the Press a week or so later, or, though it had been sent on the 10th, in the rush of work in the District Magistrate's office the actual noting of the receipt was made on the 20th of February, 1962, and for some reason or another, the person responsible failed to make the relevant entry in the Receipt Register. It is difficult to overlook the fact that the Press was under a statutory obligation [vide section 127A(2)(b) of the Act] to send a letter like Ext. 6(d) and to enclose copies of the matter printed therewith; and failure to comply with this obligation was punishable under sub-section (4) of that section. I am, therefore, of the opinion that Ext. 6(d) must have been sent by Shri Ramakant Mishra (P.W. 3) to the District Magistrate as claimed by him, and, it along with its enclosures shows the existence of the leaflets by at least 20th February, 1962. The next document of importance is Ext. 8(b), a complaint dated the 20th February, 1962 enclosing two copies of the leaflet in question lodged by P.W. 34, Gurusharan Singh, the then President of the District Congress Committee, before the District Magistrate, Saharsa. The original of this complaint had been called for from the District Election Office, Saharsa, by the petitioners as early as August, 1962, and was produced together with the two enclosed leaflets by P.W. 2 District Election Clerk. The original is in Hindi and consists of three pages. On its first page, there are two endorsements in English; one is by the District Magistrate, Saharsa, with his initial and the words "Camp Birpur" and dated the 20th February, 1962. The endorsement is in these words: "Let him file this before S.D.O. Supaul, who is incharge of L and O in Supaul section"—and the other by the Sub-divisional Officer, Supaul, containing the date and the initial is in these words: "There is sufficient police arrangement. I shall myself be going about on that day. File" The first endorsement with the initial was proved by P.W. 2 as being in the handwriting of the then District Magistrate, Shri V. V. Nathan, Gurasharan Singh has also stated that the District Magistrate had written the endorsement in his presence. The other endorsement has also been proved by P.W. 2 to be in the handwriting of Shri R. C. E. Verma, the then Sub-divisional Officer, Supaul. According to the evidence of P.W. 34, he had personally taken this complaint to the District Magistrate on the 20th February, 1962 at Birpur, where the latter was camping at that time; and when he was directed to file it before the Sub-divisional Officer, Supaul, he took it to the Sub-divisional Officer at Raghapur Camp on the 21st February, 1962 and handed over the same to him. He claimed to have got the two copies of the leaflet enclosed with the complaint while they were being distributed at Chhatapur and Tribeniganj by the workers of the appellant, and apprehending that propaganda on caste line as the leaflets in question purported to make might affect law and order situation during the polling in Tribeniganj and Chhatapur thanas on the 23rd February, 1962, he thought it fit to draw the attention of the authorities. The Tribunal has accepted the evidence of P.W. 34 and has held that this complaint with the two enclosed leaflets had actually been filed on the date it purports to have been filed. It has, however, been contended on behalf of the appellant that the endorsements made on the first page of this complaint showed beyond doubt that the original complaint must have been with regard to something else which was likely to endanger the law and order situation; and no mention about the leaflets in question had been made therein, but subsequently the second and third pages of the complaint had been surreptitiously changed in the Election office and had been substituted by the present second and third pages which refer to the leaflets in question. In my opinion, there is no substance whatsoever in this contention. In the first place, propaganda on caste lines itself may create ill-feeling and hatred between castes and inflame passions at the time of polling and this may endanger law and order situation. In the second place, it was not even suggested to P.W. 2 who had brought Ext. 8(b) and the enclosed leaflets from the District Election Office or to P.W. 34 the person who had admittedly filed it before the Sub-divisional Officer—that the present second and third pages of the complaint had been changed. I have already pointed out that the original of Ext. 8(b) had been called for as early as August, 1962. Thirdly, on a close examination, it appears to me that there was intrinsic evidence in the document itself to show that Ext. 8(b) did originally contain second and third pages thereof as at present. For all these reasons, it must be held that the second and third pages of the original complaint (Ext. 8/b) are the same as they were when it was filed. The Tribunal was, therefore, right in accepting that Ext. 8(b), as it is at present, had actually been filed with the enclosed two leaflets by Shri Gurusharan

Singh (P.W. 34) on the date he claims to have filed the same, and it proves conclusively the existence of these leaflets before the last two days of polling, namely, 21st February, 1962 and 22nd February, 1962. This finding, according to the Tribunal, finds further support from the evidence of P.Ws. 14 and 15. Their evidence has been accepted in preference to the evidence of witness No. 32 for the appellant. The Tribunal has found that they were perfectly independent and disinterested witnesses, and their evidence was further corroborated by the evidence of P.W. 40, the Mukhiya of Simrahi Bazar who had spoken about the distribution of the leaflet at Simrahi Bazar. Nothing has been shown on behalf of the appellant in this Court why the Tribunal's appraisal of the evidence of P.Ws. 14 and 15 should be interfered with. I am, therefore, of the opinion that it has been established beyond reasonable doubt on dependable evidence that Exts. 6(b) and 6(c) were in the handwriting of Shri Urmilesh Jha who had sent the manuscript of the leaflet to the Press for printing and that the printed leaflets had come into existence before the polling had commenced. It has already been found that from the context, language and tenor of the offending leaflet, it was clear that it constituted an appeal to the Yadav voters to vote for the appellant and to refrain from voting for respondent No. 3 on the ground of caste, and, as such it offended the provisions of sub-section (3) of section 123 of the Act; and if the finding of the Tribunal that the printed leaflets were distributed at several places in the constituency is correct, the petitioners will have established their case of corrupt practice alleged to have been committed by the appellant or his election agent or any other person with his consent.

In regard to the Tribunal's finding on the question of distribution, the main argument on behalf of the appellant was that the leaflets were not in existence on the dates on which they are alleged to have been distributed. It appears from Ext. 7, the final result of the polling, that at Saharsa, Madhipura and Kishanpur the polling was on the 18th February, 1962; at Raghupur and Singheshwar Asthan it was on the 21st February, 1962 and at Tribeniganj on the 23rd February, 1962. I have already held above that printed leaflets had come into existence at the instance of the Election Agent of the appellant several days before the polling had started, and once that position is established, distribution thereof would be the only natural thing to do.

Thus, the evidence of destruction as adduced on behalf of the petitioners, being in consonance with the irresistible probabilities of the case gains considerable weight and credence. Even otherwise having gone through the evidence bearing on the question, to which I need not refer to in detail, because it has been dealt with by the Tribunal very elaborately, I am satisfied that the independence, disinterestedness and the credibility of the witnesses whose evidence has been accepted by the Tribunal on this point, can hardly be questioned. It will be seen that so far as the distribution of the leaflet at Saharsa was concerned, the Tribunal has placed reliance on the evidence of P.Ws. 4, 5, 7 and 33. P.W. 4 is a senior advocate at Saharsa, and he was at the time he was depositing the President of the Bar Association, Saharsa. He has stated that while he was going to court five or six days before the polling had started at Saharsa, that is, on or about the 12th of February, 1962, he saw Shri Urmilesh Jha and one Parmanand Jha distributing the leaflets in question. P.W. 5 is a medical practitioner at Saharsa, who also claims to have seen the distribution. He says that he saw P.W. 4 at about the time when the distribution was being made and P.W. 4 had also stated that he had seen Janardan Chaudhary (P.W. 5). The Tribunal has given cogent reasons for attaching weight to the evidence of these witnesses. P.W. 7 Rajbali Tahakor and P.W. 33 Mithilesh Prasad speak about the distribution of the leaflet at Saharsa in the afternoon six or seven days before the polling. The evidence adduced on behalf of the petitioners was sought to be countered by the evidence of the appellant, his election agent and two others, namely, appellant's witnesses Nos. 12 and 27. The Tribunal has rightly pointed out that their denial could not be said to be disinterested. For distribution at Pratapganj, reliance has been placed on the evidence of P.W. 6 Shri S. M. Chaudhary, as corroborated by the evidence of P.W. 13. An attempt to discredit his testimony by the appellant's witness No. 46 saying that P.W. 6, in fact, did not live at Pratapganj was too feeble to be accepted. No such suggestion was made to P.W. 6 during his cross-examination. The Tribunal has rightly accepted the evidence of P.W. 6 as that of an independent and disinterested witness. For distribution of the leaflets at Basantpur Hat (within Raghupur constituency), the Tribunal has placed reliance on the evidence of P.W. 8 as corroborated by the evidence of P.W. 29. The Tribunal, in my opinion, has given good reasons for accepting their testimony and for rejecting that of appellant's witness No. 41. It has also rightly characterised the case of the discontinuance of the Hat being held at Basantpur as an after-thought. In regard to the distribution at Pachhoria tola in village Karjain, the evidence of P.W. 10 as corroborated by the evidence of Mr. Kenet (P.W. 21), P.W. 11—a Post Master and P.W. 12 has rightly been accepted. About

Mr. Kenot, the suggestion that he was a polling agent of respondent No. 3 was denied by Mr. Kenet, and I must say that it remained unsubstantiated. There are no good reasons to discredit the evidence of these witnesses. Appellant's witness No. 40 Mohan Sangia son of Brilal Sanogia in whose courtyard the meeting at Pachhoria tola was alleged to have been held has no doubt denied the holding of the alleged meeting, but for the reasons given by the Tribunal his denial could not be accepted. Lastly, in regard to the distribution at Simrahi Bazar, the Tribunal has relied on the evidence of P.W. 40, the Mukhiya of the Panchayat at that place. Nothing has been shown why his evidence on the question of the factum of distribution at Simrahi Bazar was not worthy of acceptance. It will appear, therefore, that the finding on distribution, apart from being in consonance with the broad probabilities of the case, was also based on the evidence of several respectable and disinterested witnesses. It was, however, contended on behalf of the appellant, that the very fact that the distribution was alleged to have been made in an indiscriminate manner to all and sundry and not to Yadavs only, especially when only 5,000 copies had been printed, was sufficient justification to discredit the case. But, distribution at meetings and at other public places could hardly be made in that selective manner as suggested, and, no adverse inference can be drawn from the fact that only 5,000 copies were available for distribution. It may not be necessary to give one copy to all who might collect at a place, because one copy in the hand of one was likely to reach many hands. It was next contended that if the leaflets had been distributed as widely as is suggested by the evidence, they should have reached the authorities in charge of either the conduct of the election or of law and order but except Ext. 8(b) there was no other evidence to show that the leaflets had reached the authorities concerned. In this connection, reference was made to the appellant's petition dated the 11th July, 1953 praying to summon the then Superintendent of Police of the district in order to get proved a letter dated 3rd April, 1963 sent by him to the Tribunal enclosing reports from the officers-in-charge of Singheshwar Asthan and Pratapganj thanas situate in the constituency, and, it was urged that the Tribunal having wrongly declined the prayer, the appellant has been prevented from formally bringing that letter on the record and from showing that the authorities had no knowledge about the leaflet or its destruction. There is no doubt that the main reason given by the Tribunal for not summoning the Superintendent of Police, viz., that the letter in question was already part of the record and could always be referred to, was wrong, because, unless that letter was proved in the manner laid down by law it could not be said to be on the record and thus could not be referred to, and, it would have been perhaps better if the Superintendent of Police had been examined, but I fail to see what material difference it would have made to the result. In the first place, it was not incumbent on any one who had got the leaflet during its distribution to take the same to the police or other authorities, and, in the second place, there was nothing in law to compel the authorities to preserve such copies which they might have received or report about their receipt to their higher authorities or to anyone else. I am, therefore, not at all impressed with these contentions, and, in any case, they do not justify brushing aside the positive evidence of distribution referred to above or justify ignoring the broad and irresistible probabilities in favour of the case of distribution. Further, in my opinion, the appellant has not been able to show that, upon a consideration of the evidence as a whole, there was a substantial balance in his favour, and it is well settled that unless he was able to do that, the Tribunal's appraisal of the oral evidence could not be reversed. The finding of the Tribunal that the offending leaflets were distributed at different places in the constituency as alleged by the petitioners must, therefore, be affirmed. It follows that the ground on which the appellant's election was sought to be declared void has been established beyond all reasonable doubts, and it must be held that through distribution of the offending leaflet at different places within the constituency by the election agent of the appellant and also by some others in the presence of the appellant and, therefore, with his implied consent appeal was made to the voters belonging to the Yadav caste to vote for the appellant on the ground that he was a Yadav and to refrain from voting for respondent No. 3 on the ground that he was a Brahmin. Such an appeal must be taken to have induced an atmosphere of hostility and acrimony so as to promote enmity and hatred between the people of Yadav and Brahman castes. Commission of corrupt practice within the meaning of sub-sections 3 and 3A of section 123 of the Act having been thus established, the Tribunal's order declaring the appellant's election to be void must be affirmed.

The other part of the Tribunal's order against the appellant is under section 99(1) (g) (ii) of the Act. This order, in my opinion, was unwarranted. On the materials on the record, it cannot be said that it stands proved that the appellant was personally guilty of the commission of the corrupt practice alleged in the petition. Except the evidence relating to the distribution of the leaflets, the other evidence adduced on behalf of the petitioners about the appellant and

his agents and workers having carried on a propoganda on caste lines among the Yadavs and backward class has not been accepted by the Tribunal on the ground that it was too general and vague. It is, therefore, clear that the finding of the Tribunal as to commission of the corrupt practice in question was based entirely on the evidence relating to the distribution of the leaflets. There is no evidence of the appellant having himself distributed the leaflet at any place or at any time. There is, however, evidence which goes to show that the appellant was present either near about the place or at the very place where the distribution was made by either Shri Urmilesh Jha or by Shri Asheshwar Goit or by other persons. At Saharsa he was alleged to be sitting in a Jeep car which was standing on the road away from the place where the distribution was being made and at some other places he is alccged to have been present for addressing meetings held at those places. Such presence at the highest may establish his liability for acts of corrupt practice committed by his election or other agents but in absence of any evidence of express authorisation on his part or of active participation it does not constitute an act of his own. His vicarious liability for the acts of his agents may be said to have been established but it could not justifiably be said that he had committed those acts himself, and, in my opinion, in view of the serious and rather drastic penalties to be suffered by the person named under section 99(1)(a)(ii) of the Act, it must be held that persons proved at the trial to have been guilty of any corrupt practice was not intended to include persons proved to have been only vicariously guilty. Moreover, the evidence, such as it is, appears to be too meagre to warrant a positive finding of the type contemplated by section 99(1)(a)(ii). For all these reasons, I am inclined to accept the contention on behalf of the appellant that this part of the Tribunal's order was not warranted and should be set aside.

In the result, Election Appeals Nos. 13 and 14 of 1963 are allowed in part. The order of the Tribunal passed under section 100(1)(b) of the Act declaring the election of the appellant to the Lok Sabha as void will stand, but the order under section 99(1)(a)(ii) of the Act naming the appellant as the person proved to have been guilty of corrupt practice will be set aside.

It will be convenient to next take up the case of respondent No. 2. As already mentioned above, a Bench of this Court under order dated the 21st November, 1963, while admitting the two memoranda filed by respondent No. 2 in Election Appeal Nos. 13 and 14 of 1963 respectively, had directed him to deposit security and to file paper books as he would have been required to do so if he had preferred independent appeals under section 116A of the Act. It appears that respondent No. 2 complied with the said directions, and it was perhaps on that account that the question of the maintainability of the two memoranda as cross-objections, which had been left open to be decided if the parties so liked at the time of the hearing of the election appeals, was not raised by any of the parties. In that view of the matter, the two memoranda in question filed by respondent No. 2 can be treated as independent appeals filed by him under section 116-A of the Act. It is therefore not necessary to decide the question whether in an election appeal before the High Court the respondent was prevented from availing himself of the provisions of Order 41, rule 22 of the Code of Civil Procedure. It may, however, be pointed out that having regard to the very wide scope of the wording in sub-section (2) of section 116A of the Act, there was no reason why the provisions of Order 41 rule 22 of the Code of Civil Procedure would not be attracted; and in at least two reported cases—one in *Tazuddin Rhmed v. Dhaniram Talukdar* (A.I.R. 1959 Assam 128) and the other in *Inayatullah Khan v. Diwanchand Mahajan* (A.I.R. 1959 Madhya Pradesh 58) it has been held that in an election appeal before the High Court there was nothing to prevent the respondent from filing a cross-objection by taking recourse to the provisions of Order 41, rule 22 of the Code of Civil Procedure. As the question does not arise in this case, it need not be pursued further.

An order under section 99(1)(a)(ii) of the Act has been passed by the Tribunal against respondent No. 2 on the finding that there was sufficient and reliable evidence to show that he had himself distributed or had caused to be distributed the printed leaflets like Ext. 10 at different places within the constituency. It is this order which respondent No. 2 has challenged as unwarranted. On going through the relevant evidence, I am inclined to take the view that the order under section 99(1)(a)(ii) of the Act against respondent No. 2 was not justified. In the first place, the Tribunal having found that the petitioners had failed to establish that respondent No. 2 had got the leaflets, like Ext. 10, printed at the Mithila Press, Darbhanga, as alleged by them, in the absence of any evidence to show how and when he got possession of those leaflets, *prima facie* it was difficult and unsafe to accept the evidence of distribution by or at his instance. In the second place, I am of the opinion that the evidence adduced on behalf of the petitioners to establish the distribution of the leaflets like

Ext. 10 by or at the instance of respondent No. 2 was not worthy of any credence. While Dharmadeo Singh (P.W. 27) was himself a candidate for election to the Bihar Legislative Assembly from Tribeniganj constituency on behalf of the Swatantra Party, Nageshwar Prasad Singh (P.W. 19) claimed to have canvassed and worked for respondent No. 2 at his election. Both these witnesses are, therefore, more or less in the position of deserters from the party, and their evidence as well is too discrepant to be accepted. There being nothing to show how respondent No. 2 came in possession of the leaflets in question, I am not prepared to attach any weight to the evidence of P.W. 23 Shri Lakshmi Prasad Singh either when he says that respondent No. 2 approached him for help in election and had shown him leaflets like Ext. 10. Moreover this evidence of Shri Lakshmi Prasad Singh was countered by the denial of respondent No. 2 and by Shri Arjun Mishra, his witness No. 4. It is significant to note that this denial went unchallenged during the cross-examination of these witnesses. It may further be noted that this witness has admitted in his cross-examination that he was present in court all through when Shri Nageshwar Prasad Singh (P.W. 19) was being examined. P.W. 25, another witness on whose evidence the Tribunal has relied, claimed that at a meeting of Rajputs and Brahman voters held at his own house at Motipur, respondent No. 2 had distributed the leaflets in question. It is significant to note that in Annexure D to the Election Case No. 177 of 1962 wherein the names of the several villages were mentioned where the leaflets in question are alleged to have been distributed, the name of this village, namely, of Motipur is conspicuously absent; and in the circumstances the evidence of this witness must be rejected as an after-thought. It is well settled that charge of commission of corrupt practice is a charge of a quasi-criminal character, and the standard of proof for establishing the charge is the same as in a criminal trial. In the present case, applying that standard, it cannot be said that the charge as against respondent No. 2 has been brought home to him beyond all reasonable doubts. In the result, the order under section 99(1)(a)(ii) of the Act passed against respondent No. 2 cannot be allowed to stand, and it is, therefore, set aside.

Election Appeal Nos. 15 and 16 of 1963 may now be taken up. These two appeals are by the petitioners of the two election cases. They are directed against the order of the Tribunal refusing to grant the prayer made in the two election cases to declare respondent No. 3 as having been duly elected under section 101(b) of the Act. It has been contended on behalf of the petitioners in these two appeals that the Tribunal having held that the election of the returned candidate was vitiated on account of caste appeal, it was but natural and reasonable inference to hold on the basis of the evidence on the record that but for the caste appeal the returned candidate would not have secured the majority of valid votes and that those valid votes would have been cast for respondent No. 3, Shri Lalit Narain Mishra. It was further contended that the Tribunal had failed to properly apply the principles laid down by the Supreme Court in *T. C. Basappa v. T. Nagappa and another* (A.I.R. 1954 Supreme Court 440) to the facts and circumstances of this case. I am, however, satisfied that there is no force in any of these contentions of the petitioner-appellants and the appeals are without any merit and must be dismissed. The difference in votes between the returned candidate and respondent No. 3 was 15,133; and, before the Tribunal could be satisfied that but for the votes obtained by the returned candidate by corrupt practices, respondent No. 3 would have obtained a majority of the votes, it was necessary for the petitioners to furnish reliable data from which the Tribunal could reasonably come to a conclusion that the returned candidate had obtained by corrupt practices this huge margin of votes and something more which should be deducted from his total number of votes. In my opinion, the petitioners have failed to furnish any such data. It will appear that the Tribunal has given very cogent reasons for discarding the result of the so called census operations held by certain members and whole-time workers of the Congress Party; and in the circumstances it is not possible to place any reliance on the result of that operation. The Tribunal has further pointed out that even if the figure of 54,279, alleged to be the number of Yadav voters who, it was claimed, had actually cast their votes in the election were accepted, there was no guarantee or even reasonable certainty that either one-half of that figure had cast their votes in favour of the returned candidate and that they or at least 15,134 of them had so voted for the returned candidate under the influence of the latter's caste appeal. From the materials already on the record, it could not be ascertained even approximately how many Yadav voters were approached with caste appeal and how many fell under its influence. The Tribunal has made reference to the evidence showing the decline of respondent No. 3's popularity among certain sections of the voters for various reasons, and it has also observed that there was evidence that the returned candidate was more popular than his rival candidates among the poor and backward classes. To conclude, it being impossible to find on the materials before the Tribunal that caste appeal was the sole reason for the enormous difference of

votes between the returned candidate and respondent No. 3, the prayer made on behalf of the petitioners to declare respondent No. 3 as having been duly elected could not be granted. There is also no substance in the contention that the Tribunal has failed to appreciate the decisions in *T. C. Basappa v. T. Nagappa and another* (A.I.R. 1954 Supreme Court 440) or in *Jamuna Prasad Mukhiya and others v. Lachhi Ram and others* (A.I.R. 1954 Supreme Court 686) and *T. Nagappa v. T. C. Bassappa* (A.I.R. 1955 Supreme Court 756). It has dealt with those decisions in detail, and, in my opinion, the facts of those cases were not at all similar to the facts of the present case in as much as in all these cases the crust was that of numerical preciseness of the questioned votes. These two appeals, therefore, are without any merit and must, therefore, be dismissed.

In the result, Election Appeal Nos. 13 and 14 of 1963 are allowed in part. The order passed by the Tribunal declaring the election of Shri Bhupendra Narain Mandal to be void under section 100(i)(b) of the Act is upheld, but the order under section 99(i)(a)(ii) of the Act passed against him is set aside. The order against respondent No. 2 Shri Ram Anugrah Jha passed under section 99(i)(a)(ii) is also set aside. Election Appeal Nos. 15 and 16 of 1963 are, however, dismissed, and the order passed by the Tribunal refusing to declare respondent No. 3 as having been duly elected is affirmed. In view of the divided success of these appeals, the parties shall bear their own cost of this Court.

Sd/- A. B. N. SINHA,

MISRA, J. I agree

Sd/- S. C. MISRA,

Patna High Court:

The 21st August, 1964.

[No. 82/177/296/62.]

New Delhi, the 18th September 1964

S.O. 3375.—In exercise of the powers conferred by Sub-section (1) of section 13A of the Representation of the People Act, 1950 (43 of 1950), the Election Commission, in consultation with the Government of Madhya Pradesh hereby nominates Shri R. G. Trivedi as the Chief Electoral Officer for the State of Madhya Pradesh with effect from the date he takes over charge and until further orders vice Shri M. S. Chaudhary proceeding abroad.

[No. 154/6/64.]

S.O. 3376.—In pursuance of sub-section (6) of Section 116A of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes the decision of the High Court of Judicature for Rajasthan at Jodhpur given on the 26th August, 1964 on an appeal from the order dated the 23rd December, 1963 of the Election Tribunal, Jhunjhunu.

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

JUDGMENT

Shri Balji Vs Shri Murarka Radheyshyam Ramkumar.

Election Appeal No. 17 of 1964, against the Judgment of Shri Roop Singh Rathore, Member, Election Tribunal, Jhunjhunu, dated 23rd December, 1963, in Election Petition No. 295 of 1962.

Date of Judgment: The 26th August 1964.

PRESENT

The Hon'ble Mr. Justice I. N. Modi.

The Hon'ble Mr. Justice B. P. Beri.

For the appellant—M/s. H. P. Gupta and R. S. Kejriwal, Advocates.

For the respondent—M/s. N. P. Nathwani, H. J. Thacker and J. P. Jain, Advocates.

BY THE COURT (PER HON. MODI J.).

This is an election appeal under Section 116A of the Representation of the People Act, (No. 43) of 1951 (hereinafter called the Act).

The appellant Shri Balji was a candidate for election to the House of the People from the Jhunjhunu Parliamentary Constituency at the General Election held in

January, 1962. The respondent Shri Murarka Radheyshyam Ramkumar was declared successful at this election. There were more than a dozen other candidates at the election in question but we are not concerned with them. The appellant's nomination paper was rejected by the Returning Officer Shri V. I. Rajagopal R.W. 2 (Collector, Jhunjhunu) at the time of the scrutiny which was held on the 22nd January, 1962. A copy of the order of rejection of the nomination paper is Ex. 13. It shows that neither the candidate Shri Balji nor his proposer Abdul Gani nor any election agent or representative on his behalf was present at the time of the scrutiny. The reason for the rejection was stated to be that the proposer Abdul Gani had given his electoral roll Number as 105, Ward No. 13 (Nawalgarh); but the name of Atma Ram son of Ramgopal appeared in the relevant Electoral roll against the said particulars and wrong particulars given by the proposer constituted a defect of a substantial nature. The order also shows that all present at the time of the scrutiny were given full opportunity to examine the nomination form before the final decision was given. Aggrieved by this decision, the appellant filed an election petition to the Election Commission of India, New Delhi, on the 13th April, 1962, which was referred for disposal to Shri Roop Singh Rathore, District Judge, Jhunjhunu as the Election Tribunal.

The principal contentions raised by the appellant election petitioner in his application are:

- (1) that the nomination paper was filed by the candidate and his proposer before the Returning Officer on the 19th January, 1962, at 2.58 P.M. and was received by the Assistant Returning Officer Shri K. C. Jain (Vide receipt Ex. 2) without any objection and at that time the numbers on the electoral roll both of the candidate and the proposer had been checked up;
- (2) that in the receipt Ex. 2 which was given by the said Assistant Returning Officer to the appellant, it was mentioned that the scrutiny of the nomination papers would take place at 2.58 on the 22nd January, 1962, which led the petitioner and the proposer to believe that the scrutiny of his nomination form would not take place before the time so indicated, and yet the Returning Officer held the scrutiny at 11 A.M. on the 22nd January 1962, behind the back of the petitioner and his proposer, and that he had done so deliberately to help the respondent Shri Murarka who was a Congress candidate, and
- (3) that the Returning Officer had fallen into a serious error of law in holding that the supply of wrong electoral number from a wrong electoral roll was a defect of a substantial character. The appellant's version on this aspect of the case was that the proposer was a resident in the town of Nawalgarh and that the particulars which were given in the nomination form in the shape of his electoral roll number were inadvertently given from the municipal electoral roll for the town of Nawalgarh (Ext. 4) inasmuch as his number in that electoral roll was 105 in Ward No. 13 thereof. It is submitted that the correct electoral roll number of the appellant's proposer Abdul Gani in the relevant (Nawalgarh) Assembly Constituency electoral roll was No. 96 in Ward No. 15. It may be conveniently pointed out here that this number should have been mentioned in the nomination paper as No. 96 Part 37 of the Nawalgarh Assembly Constituency. Be that as it may, the position taken up by the election petitioner was and is that this defect was of a clerical nature and was of a non-substantial character and, therefore, should not have been allowed to prevail by the Returning Officer. It is further stressed in this connection that if the scrutiny of the appellant's nomination paper had not been made before the time noted down in the receipt Ex. 2 which had been given to him in lieu of the presentation of his nomination paper, it should have been possible for him to establish the identity of his proposer by leading the necessary evidence and that the rejection of his nomination paper, therefore, before the time so fixed had caused him grave prejudice.

It is necessary to mention two other facts to complete the narration of events. The first is that according to the petitioner he and his proposer had reached the office of the Returning Officer at about 1-30 P.M. on the 22nd January, 1962, and having come to know that his nomination paper had been rejected by him, he made efforts to find out the reason why his nomination paper had been rejected. The petitioner's grievance obviously is that on the very day he had made one or more applications for obtaining a copy of the order but without any success. Consequently he sent a telegram to the Election Commission (See. Ex. 10) on the 25th January, 1962, complaining that the Returning Officer had illegally rejected his nomination paper and had also refused to supply a copy of his order even on

double fees and he further sent an application (See copy Ex. 11) dated the 5th February, 1962, also to that very authority wherein he complained more or less in the same strain; but further submitted that he had filed an application duly stamped for supply of copies of the relevant documents but it was returned to him. The appellant also submitted that he feared foul-play. The other fact is that the appellant had also filed his nomination paper for a seat in the House of People from the Sikar constituency which he admittedly withdrew later on.

The appellant election-petitioner, therefore, prayed that the rejection of his nomination paper was illegal and consequently the election of the respondent be declared void.

The respondent completely traversed the allegations made in the election petition.

Now it has been found by the Tribunal that the nomination paper of Shri Balji was received by the Returning Officer on the 19th January, 1962, at 2-58 P.M. and the receipt (Ex. 2) for the same was executed by the Assistant Returning Officer Shri K. C. Jain and that in that receipt it was mentioned that the time for the scrutiny of the nomination paper was 2-58 (P.M.) on the 22nd January, 1962. The Election Tribunal, however, further found that the mention of the time of the scrutiny in the nomination paper as 2-58 P.M. in this receipt was a pure and simple accidental mistake inasmuch as the appellant's own witness Shri Jain had said so. It was further found that the appellant's assertion at the trial that Shri K. C. Jain had also orally told him that the scrutiny would take place at 2-58 P.M. on the 22nd January, 1962, was not at all substantiated by the evidence either of Shri K. C. Jain or the other witnesses of the appellant. The Tribunal also found that it had not been satisfactorily proved that the appellant Balji had reached the office of the Returning Officer on the 22nd January, 1962 at 1-30 P.M. On the question whether the Assistant Returning Officer had compared the electoral number of the appellant's proposer with the correct and the relevant electoral roll and whether he was satisfied as to the correctness thereof, the finding of the Tribunal is that the Assistant Returning Officer had no doubt tried to check the name and the electoral roll number of the proposer Abdul Gani; but this comparison had somehow been made not with respect to the entries in the Legislative Assembly Electoral roll but with the Municipal Electoral roll for the town of Nawalgarh, which had been placed on his behalf before the Assistant Returning Officer, and this is how that officer did not notice the discrepancy. On the last and the most important question as to whether the defect with respect to the wrong mention of the electoral roll number of the proposer in the nomination form was a defect of a substantial nature or not, the Tribunal found that it was not a defect which was merely of a clerical or technical nature justifying the rejection of the nomination paper of the election-petitioner. In coming to this conclusion, the Tribunal further found that the story trotted out by the petitioner and some of his witnesses that Abdul Gani had been traced before the Returning Officer at the time of the scrutiny and that his identity had been fixed with reference to the assembly electoral roll could not be accepted as correct. These are in brief the findings of the Tribunal which have been attached before us in this appeal.

Now, the most important question which emerges for determination in this appeal is whether the wrong entry as to the electoral roll number of the proposer in the nomination paper is a defect which is merely of a technical or clerical nature or is of a substantial character, for we might state at once that if the defect was of an unsubstantial nature, there would be no justification for the Returning Officer to have rejected it and in support of this view, it should be sufficient to refer to sub-section (4) of S. 36 of the Act, which reads as follows:—

"The returning officer shall not reject any nomination paper on the ground of any defect which is not of a substantial character."

But before we address ourselves to this question, we consider it proper to dispose of another objection raised on behalf of the appellant that having regard to the mention that was made in the receipt that the nomination papers would be scrutinised by the returning officer at 2-58 P.M. on the 22nd January, 1962, the said officer had no business to scrutinise his nomination paper before that time, and that this has caused him a serious prejudice from which he had and has a right to be saved and which must, therefore, result in the setting aside of this election. The mainstay of learned counsel's argument in this connection was S. 35 which reads as follows:—

"The returning officer shall, on receiving the nomination paper under sub-section (1) of section 33 inform the person or persons delivering the same on the date, time and place fixed for the scrutiny of nominations and shall enter on the nomination paper its serial number, and

shall sign thereon a certificate stating the date on which and the hour at which the nomination paper has been delivered to him; and shall, as soon as may be thereafter, cause to be affixed in some conspicuous place in his office a notice of the nomination containing descriptions similar to those contained in the nomination paper, both of the candidate and of the proposer."

The argument was that section 35 places a duty on the returning officer after a nomination paper has been presented to and received by him to inform the persons delivering the same on the date, time and place fixed for the scrutiny of the nominations, and that that being so, the returning officer could not have made a scrutiny of the appellant's nomination paper before the time and the date or save at the place so specified. The argument may be attractive at first sight; but, in our opinion, is devoid of substance. This would be clear from the sections which precede S. 35 in Part V of the Act. Part V deals conduct of elections and begins with S. 30. This section contemplates that after a notification calling upon a constituency to elect a member or members is issued, the Election Commission shall, by notification in the Official Gazette, appoint:

- (a) the last date for making nominations,
- (b) the date for the scrutiny of nomination,
- (c) the last for the withdrawal of candidatures,
- (d) the date or dates on which a poll shall be taken, and
- (e) the date before which the election shall be completed.

and lays down certain points of time for all these stages of an election, which it is not necessary for our purposes to reiterate here and consequently we refrain from doing so. Section 31 then is in these terms:—

"On the issue of a notification under section 30, the returning officer for the constituency shall give public notice of the intended election in such form and manner as may be prescribed, inviting nominations of candidates for such election and specifying the place at which the nomination papers are to be delivered."

Section 32 then lays down that

"Any person may be nominated as a Candidate for election to fill a seat if he is qualified to be chosen to fill that seat under the provisions of the Constitution and this Act."

Section 33 deals with the requirements of a valid nomination as also the presentation thereof. Sub-section (1) of this section reads as follows:—

"On or before the date appointed under clause (a) of section 30 each candidate shall, either in person or by his proposer, between the hours of eleven O'clock in the forenoon and three O'clock in the afternoon deliver to the returning officer at the place specified in this behalf in the notice issued under section 31 a nomination paper completed in the prescribed form and signed by the candidate and by an elector of the constituency as proposer.

(The underlining is ours).

Sub-section (4) of this section reads as follows:—

"On the presentation of nomination paper, the returning officer shall satisfy himself that the names and electoral roll numbers of the candidate and his proposer as entered in the nomination paper are the same as those entered in the electoral rolls;

Provided that the returning officer shall permit any clerical or technical error in the nomination paper in regard to the said names or numbers to be corrected in order to bring them into conformity with the corresponding entries in the electoral rolls; and where necessary, direct that any clerical or printing error in the said entries shall be overlooked."

Then follows section 36 which deals with the scrutiny of nomination papers. But to this, we propose to refer at the proper place.

Suffice it to mention here that this section enjoins the rejection of a nomination paper where among other matters, there has been a failure to comply with any of the provisions of S. 33.

"The public notice of an intended election referred to in section 31 shall be in Form 1 and shall subject to any directions of the Election

Commission, be published in such manner as the returning officer thinks fit."

These rules have obviously been made under S. 169 of the Act Form 1 as prescribed in these rules reads as follows:—

"FORM 1

Notice of Election

(See Rule 3)

Election to*

Notice is hereby given that—

- (1) an election is to be held of
- (2) forms of nomination paper may be obtained at the offices of the officers specified in paragraph 6 between the hours of and from (date) to(date).
- (3) nomination papers may be delivered between the hours of 11 in the morning and 3 in the afternoon by a candidate or his proposer to any of the officers specified in paragraph 6 at his office on any day not later than theday of
- (4) the nomination papers will be taken up for scrutiny at(hours) on(date) at(place).
- (5) notice of withdrawal of candidature may be delivered by a candidate, his proposer or election agent to anyone of the officers specified in paragraph 6 at his office before 3 P.M. on
- (6) nomination papers and notices of withdrawal, may be delivered to any of the officers specified in the first column of the following table at his office specified in the corresponding entry in the second column of the table:—

TABLE

Designation of Officer 1	Location of Office 2
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1. Returning Officer.

2. Assistant Returning Officer.

(7) in the event of the election being contested, the poll will take place on.....between the hours of.....and.....

Returning Officer,

Place Constituency

Date

*Here appropriate particulars of the election are to be inserted."

We would invite particular attention to paragraph (4) of this form according to which time for the scrutiny of the nomination papers is required to be fixed.

Now, it is not disputed before us that a public notice (Ex. A1) under Rule 3 of the Rules which in its turn refers to S. 31 was issued and duly published by the returning officer in this case on the 13th January, 1962, as under:—

"FORM 1
Notice of Election
(See Rule 3)

Sd./-
(SEAL)

RETURNING OFFICER, JHUNJHUNU
PARLIAMENTARY CONSTITUENCY
(D.M.) JHUNJHUNU

Election to House of People

Notice is hereby given that:—

- (1) an election is to be held of a member to fill the seat allotted to the Jhunjhunu constituency of the House of the People.
- (2) forms of nomination paper may be obtained at the offices of the officers specified in paragraph 6 between the hours of 11 A.M. to 2 P.M. and from 13th January 1962 (date) to 20th January, 1962 (date).
- (3) nomination papers may be delivered between the hours of 11 in the morning and 3 in the afternoon by a candidate or his proposer to any of the officers specified in paragraph 6 at his office on any day not later than the 20th day of January, 1962.
- (4) the nomination papers will be taken up for scrutiny at 11 A.M. (hours) on 22nd January (date) 1962 at Collectorate—Jhunjhunu (Place).
- (5) notice of withdrawal of candidature may be delivered by a candidate, his proposer or election agent to any one of the officers specified in paragraph 6 at his office before 3 P.M. on 25th January, 1962.
- (6) nomination papers and notices of withdrawal may be delivered to any one of the officers specified in the first column of the following table specified in the corresponding entry in the second column of the table:—

TABLE

Designation of the Officer 1		Location of Office 2
1. Returning Officer.	Distt. Electoral Officer, Distt. Magistrate, Jhunjhunu	Collectorate, Jhunjhunu
2. Assistant Returning Officer	Dy. Distt. Electoral Officer Jhunjhunu	Collectorate, Jhunjhunu

- (7) In the event of the election being contested, the poll will take place on 21st, 23rd and 25th of February, 1962 (dates) between the hours of 8 A.M. and 5 P.M.

Sd/- V. I. RAJAGOPAL,
Returning Officer, Jhunjhunu
Parliamentary Constituency, Jhunjhunu
Sd/- K. C. JAIN.

Dated 13-1-63

Place: Jhunjhunu

(Seal)
Returning Officer
Parliamentary Constituency"

It will thus be seen that it was clearly mentioned in this public notice dated the 13th January, 1962 that the nomination papers will be taken up for scrutiny at 11 A.M. on the 22nd January, 1962, at the Collectorate, Jhunjhunu.

Now it is in this setting that we have to see whether the appellant could have any legitimate grievance that he had been misled by the time for scrutiny mentioned in his receipt Ex. 2 dated the 15th January, 1962. Evidence has been led on behalf of the respondent to show that this notice had been read out to the appellant by the respondent's witness Sitaram Parasrampuria about the 15th or 16th January, 1962, when he had gone to the office of the Collector, Jhunjhunu to collect certain forms etc. for the respondent. Even if we were to reject this evidence as untrue, we find it impossible to hold that the appellant was not aware of this notice. Indeed we must hold that he was very much aware of it because otherwise one could hardly know how the programme of the entire election stood for this constituency for which the appellant was a candidate and how for example the nomination paper were to be obtained and when and during which hours they were required to be presented and so on and so forth. It was clearly mentioned in this notice that the nomination papers would be taken up for scrutiny at 11 A.M. on the 22nd January, 1962, at the Collectorate, Jhunjhunu. We, therefore, find it hard for us to accept that the appellant was or could be really prejudiced by anything mentioned in the receipt. As we look at 2-58 P.M. on the 22nd January, 1962, we have no hesitation in saying that it to him, he would have at once seen that there was a conflict in the time table so far as the scrutiny of the nomination papers was concerned, which is indeed a very vital step in the whole process of election, and we should have expected him to further inquire into the matter. And if he had done so, he would have at once come to know how the position correctly stood.

So far as the appellant's version made at the trial that he had been orally informed by the Assistant Returning Officer that the scrutiny would take place at 2-58 P.M. on the 22nd January, 1962, we have no hesitation in saying that it is absolutely unacceptable. No question was put to Shri K. C. Jain, the Assistant Returning Officer. In that behalf when he was examined by the appellant himself on his side and consequently he has said nothing on that aspect of the matter. On the other hand, he clearly deposed that the time entered in the receipt Ex. 2 for scrutiny as 2-58 P.M. was just an accidental slip of pen, because at this time the nomination form was presented." We should also like to make it clear that reading section 31 together with rule 3 of the Rules and the form 1 prescribed thereunder, the notice issued under these provisions already set out the time for the filing and the scrutiny of the nomination papers, and we are not prepared to accept the submission of learned counsel for the appellant that this is properly required to be done under the scheme of the Act for the first time under S. 35 thereof, when the last-mentioned section, among other matters, requires that on receiving the nomination paper under sub-section (1) of S. 33, the Returning Officer shall inform the person or persons delivering the same of the date, time and place fixed for the scrutiny of nominations. That provision, to our mind, has been made mearly by way of abundant caution and no more so far as this aspect of the matter is concerned. We should also like to make it clear that the phrase "intended election" as used in S. 31 has not been used in any narrow sense but embraces the entire process of election from the time the constituency has been called upon to go to poll till the result of the poll is declared. As we look at the matter, therefore, we are clearly of the opinion that having regard to all the circumstances, it was the duty of the appellant election-petitioner to have been present at the time of the scrutiny, that is, 11 A.M. on the 22nd January, 1962. In the office of the Returning Officer at Jhunjhunu, and if he failed to do so, and his nomination paper was disposed of in his absence, the fault is entirely his own, and, at any rate. We are not able to hold that that has really caused him any prejudice.

Before parting with this aspect of the case, we cannot also fail to remark that if the wrong mention of the time for scrutiny in the receipt Ex. 2 should have had any such effect on his mind, as the appellant now wishes to be believed, it is highly strange that no mention of this should have at all been made either in his telegram Ex. 10, dated the 25th January, 1962, or in his application Ex. 11, dated the 5th February, 1962, to the Chief Election Commissioner. It is further significant to note in this connection that although the appellant stated at the trial that he had made an application to the Returning Officer protesting against the procedure followed by him on that very day, that is, the 22nd January, 1962, no such application has been forthcoming on the record. The appellant has tried to explain this by saying that that application had been returned to him by the Returning Officer. But if that was so, one should have found a reference to this part of the complaint also which certainly betrayed the alleged high-handedness of the Returning Officer,—in the telegram and the application sent to the Chief Election Commissioner. A question was put to the Returning Officer when he came into the witness-box in this connection and his reply was "If the suggestion is that I refused to take an application presented to me in writing, it is a careerd If any such application would have been presented, that should be

on record." We see no reason to disbelieve the Returning Officer. This contention, therefore, besides being otherwise untenable, seems to us to be in the nature of an afterthought. We hold accordingly.

Yet another contention raised on behalf of the appellant which may next be considered is that based on Sec. 33(4) of the Act. The submission is that when the nomination of the appellant had been presented to the Returning Officer, the latter was satisfied that the names and the electoral roll number of the proposer as entered in the nomination paper were the same as entered in the electoral rolls, and, consequently, the failure of the Assistant Returning Officer who dealt with the nomination paper at that stage to raise any objection in that behalf amounts to non-compliance on his part with the requirements of that section and should be held to be sufficient to declare the election of the respondent void within the meaning of S. 100(d)(iv) of the Act. It may be accepted that Section 33(4) requires that when a nomination paper is presented to the Returning Officer, he shall attend to the names and electoral roll numbers of the candidate and his proposer as entered in the nomination paper and see whether they are the same as entered in the relevant electoral rolls, and where he comes to the conclusion that there is any clerical or technical error in regard to such names or numbers, power has been given to him to have the same corrected in order to bring them into conformity with the latter. The fact that this requirement was only followed perfunctorily in this case admits of no doubt. We have it from the Assistant Returning Officer Shri K. C. Jain who was examined by the appellant himself in this case that when the nomination paper of the appellant together with a certain electoral roll was placed before him he found that the name and the electoral roll numbers as mentioned in the nomination paper and the electoral roll tallied, whereupon that electoral roll was taken away. The fact remains that the said officer did not check up the number and the name from the relevant electoral roll which was the Assembly roll, for if he had done so, he would have immediately found that there was no error in the nomination paper. That, in our opinion, however, would not necessarily lead to the conclusion that the error could be got corrected by him for the simple reason that it raised a further and ticklish question whether the error in this case was a merely technical or clerical error, or it was fundamental in which case even if the error should have been pointed out to the proposer it would still be a question whether it could be corrected or not. Apart from that, we are clearly of opinion that the failure of the Assistant Returning Officer to find out the error cannot have the effect of visiting the election within the meaning of S. 100 (1)(d) (iv) of the Act. For one thing, that would be putting a premium on the negligence of the candidate himself. For another, we are disposed to think that it is not the non-compliance with any and every provision of the Constitution or of this Act or any rules or orders made under this Act which must necessarily be permitted to have the effect contended for. The simple reason to our mind is that there are provisions and provisions. Some provisions are of a mandatory nature and others directory. To hold that non-compliance with the provisions of the Constitution or of the Act or of any rules or orders made under this Act irrespective of this distinction should necessarily vitiate an election would, in our opinion, lead to startling results, and we cannot possibly approve that as intended by the Legislature.

Having regard to the setting in which this provision occurs, we have no hesitation in saying that S. 33(4) is of a directory nature. Suppose, there is an error of a technical or clerical nature, which has not been detected by the Returning Officer at the time of the presentation of the nomination paper and consequently it has not been corrected. There is a further stage namely the stage of scrutiny of the nomination paper where the error may happen to be detected. But the failure to detect or correct the error at the earlier stage need not stand in the way of the same being ignored at the scrutiny stage provided of course the error is of an unsubstantial character. Suppose again, the error is of a radical nature and the Returning Officer who had not at that time the benefit of other opinions on the matter ignored the error although it should not have been. It seems to us that such a matter could again be raised at the stage of scrutiny by the rival candidates or their agents or representatives as the case may be, and such a matter may undoubtedly fall to be considered and decided in an appropriate manner at that stage. This view receives high support from the decision of their Lordships of the Supreme Court in *Rangilal v. Dahu Sec.* (1). We have, therefore, no hesitation in coming to the conclusion that the provisions contained in S. 33(4) are of a directory nature and any non-compliance with them should not and cannot in law have the effect of vitiating the election. Consequently, we repel this objection also.

(1) A.I.R. 1962 Supreme Court 1248.

This brings us to the last but not the least question whether the defect as to the number in the nomination form from a wrong electoral roll from which the same was given is a merely technical or clerical defect or it is one of a substantial character.

Now, while we are on this aspect of the case. Let us be clear about the meaning of the word "electoral roll" as contemplated by law. Section 13D(1) of the Representation of the People Act, 1950 lays down as follows:—

"The electoral roll for every parliamentary constituency other than a parliamentary constituency in a Union territory shall consist of the electoral rolls of so much of the assembly constituencies as are comprised within that parliamentary constituency; and it shall not be necessary to prepare or revise separately the electoral roll for any such Parliamentary constituency."

Therefore, the relevant roll with reference to which the numbers of the proposer should have been stated is that of the assembly constituency for Jhunjhunu wherein the proposer resided and for which the candidate was standing.

Section 33(1) of the Act then clearly provides that a nomination paper shall be completed in the prescribed form. The form as prescribed by rule 4 of the Rules says that every nomination paper presented under sub-section (1) of S. 33 shall be completed in such one of the forms 2A to 2E as may be appropriate. The form relevant for our purpose in Form 2A. Clause (1) of this form deals with the full name of the proposer and clause (2) with his electoral roll number. The foot note to this form in connection with the electoral roll number is instructive which reads as follows:—

"Here insert—

- (i) the name of the parliamentary constituency;
- (ii) the name of the component assembly or electoral college constituency in the electoral rolls of which the name of proposer has been entered;
- (iii) the serial number of the part of the electoral roll in which such entry accrues; and
- (iv) the serial number of the entry in that part.

Illustration:

"Lucknow Parliamentary constituency;

Lucknow City East Assembly constituency;

Part 7;

No. 358."

Following this pattern, the electoral roll number of the proposer should have been stated as follows—

"Jhunjhunu Parliamentary constituency;

Nawalgarh Assembly constituency;

Part 57;

No. 96."

The name against the number 96 is

"Abdul Gani son of Baxa, Male, Age 40 years."

Instead the entry to be found against columns Nos. 1 and 2 of the nomination form No. 1 are thus:

"**ABDUL GANI**

105 Ward No. 13,

Nawalgarh."

Even if we were to ignore that the names of the parliamentary and assembly constituencies are not mentioned in the nomination form and that these defects may not be treated as being of substantial nature, the question is whether the mention of the erroneous roll number as 105 in Ward No. 13 substantially fulfills the requirements of law prescribed by S. 33(1). We find ourselves altogether unable to answer this question in favour of the appellant.

The object underlying the provision contained in S. 33(1), of the Act read with Rule 3 and the form prescribed thereunder, clearly is that the Returning Officer should be in a position to readily know from the particulars given in the nomination form that the candidate and his proposer are entitled according to

law respectively to stand and to propose at the election; and the law, *inter alia*, is that so far as the proposer is concerned, he must be a registered voter on the electoral roll relative to the election which is the electoral roll prepared for the assembly constituency for that area, while the candidate may be a registered voter in any parliamentary constituency (in the State or outside it) and may not necessarily be a registered voter in the constituency where he chooses to set up his candidature. There is also another object, and that is that the other candidates and the voters in that area precisely know who are their rival candidates and their proposers at the election to be held in and for their constituency. To achieve these objects, it is absolutely necessary in our opinion that the candidate and his proposer should give their correct names and their numbers on the relevant electoral rolls, and this clearly brings out the importance of the requirement laid down in section 33(1) as well as the force of the consequential provision made in section 36.

Now S. 36 of the Act in so far as it is material for our purposes reads as follows:—

- "36. (1) On the date fixed for the scrutiny of nominations under section 30, the candidates, their election agents, one proposer of each candidate, and one other person duly authorised in writing by each candidate, but no other person, may attend at such time and place as the returning officer may appoint; and the returning officer shall give them all reasonable facilities for examining the nomination papers of all candidates which have been delivered within the time and in the manner laid down in section 33.
- (2) The returning officer shall then examine the nomination papers and shall decide all objections which may be made to any nomination, and may, either on such objection or on his own motion, after such summary inquiry, if any, as he thinks necessary reject any nomination on any of the following grounds:—
- (a)
 - (b) that there has been a failure to comply with any of the provisions of section 33 or section 34; or
 - (c)
- (3)
- (4) The returning officer shall not reject any nomination paper on the ground of any defect which is not a substantial character.
- (5) The returning officer shall hold the scrutiny on the date appointed in this behalf under clause (b) of section 30 and shall not allow any adjournment of the proceedings except when such proceedings are interrupted or obstructed by riot or open violence or by causes beyond his control:
- Provided that in case an objection is raised by the returning officer or is made by any other person, the candidate concerned may be allowed time to rebut it not later than the next day but one following the date fixed for scrutiny, and the returning officer shall record his decision on the date to which the proceedings have been adjourned.
- (6) The returning officer shall endorse on each nomination paper his decision accepting or rejecting the same and, if the nomination paper is rejected, shall record in writing a brief statement of his reasons for such rejection.
- (7) For the purposes of this section, a certified copy of an entry in the electoral roll for the time being in force of a constituency shall be conclusive evidence of the fact that the person referred to in that entry is an elector for that constituency; unless it is provided that he is subject to a disqualification mentioned in section 16 of the Representation of the People Act, 1950.
- (8) Immediately after all the nomination papers have been scrutinized and decisions accepting or rejecting the same have been recorded, the returning officer shall prepare a list of validly nominated candidates, that is to say, candidates whose nominations have been found valid, and affix it to his notice board.

This section imposes an obligation on the Returning Officer to examine the nomination papers in the light of any objections that may be raised before him, or on his own initiative and to reject a nomination paper on certain grounds which are specified in clauses (a), (b) and (c) of sub-section (2) thereof, and one of these grounds is the failure to comply with the provisions of S. 33. The Supreme Court case of *Brijendralal v. Jwala Prasad* (1A) is an authority for the proposition that a case like the present where a breach of S. 33 is established falls squarely under S. 36(2) (b) and no enquiry under S. 36(2) (a) is called for or can be made and the only question which survives in such a case is whether the defect arising is of a substantial character or not, for, if the defect in the nomination paper is not of a substantial nature, then it shall not be invalidated for such a defect which shall be ignored under S. 36(4). It is, therefore, to this question that we proceed to address ourselves.

Now we have it from the Returning Officer Shri Rajagopal R.W. 2 that the electoral roll of the Nawalgarh Assembly Constituency consists of 90 parts, and in each part, the serial number of voter starts with No. 1. We are prepared to accept that where an electoral roll is not divided into parts, the number of the part may not be given, and that the omission to mention the particular part would not be a defect of a substantial nature. But where the electoral roll is divided into a number of parts, and each part consists of hundreds of persons, as in the case before us, and where each part begins with the serial number of the voters therein contained as No. 1, we cannot but hold that the number of the part is a matter of substance, because if the number of the part is not given, the Returning Officer would be put to the almost impossible task of wading through all the 90 parts, or as many more as may be in a given case, to hunt out where the name of the proposer (or a candidate as the case may be) happens to be enrolled. We have no doubt that the Legislature does not expect such a performance from him. Again, even if we were to hold the failure of the proposer to mention the part of the electoral roll as a non-substantial defect in the present case, inasmuch as he had mentioned his electoral roll number with reference to a ward and therefore that indicated that in all probability he was a resident of the municipal town of Nawalgarh itself, then all that the Returning Officer was required to do was to see whether his name appeared in that ward at No. 105 in the relevant electoral roll. It is admitted before us that the relevant electoral roll with respect to the town of Nawalgarh consists of 19 parts (See parts 43 to 61) or let us say, wards. The Returning officer's evidence is, and he is undoubtedly correct when he says so, that in this electoral roll in ward No. 13 at No. 105 as given in the nomination paper, the name that appears is that of Atma Ram son of Ramgopal, Male, Age 26 and not that of Abdul Gani the appellant's proposer. There is evidence on the record to show that there are a number of entries appearing in the same name, that is, of Abdul Gani in these 19 parts and that has not been questioned before us. It may also be noticed here that the nomination paper which is prescribed does not require the parentage of the proposer to be mentioned and consequently it was not mentioned therein. That being so, it should have been almost a gamble, if not an impossibility, to trace out who the proposer of the appellant was in the relevant roll, which as we have already stated contain several entries in the name of Abdul Gani in the relevant electoral roll relating to the town of Nawalgarh. We should also like to mention here that the Returning Officer was not required in law to look up the name of the appellant in the municipal electoral rolls which had no relevance whatever to the purpose in hand. It may incidentally be mentioned that it was admitted before us that even the municipal electoral roll Ex. 4 contained a number of entries in the name of Abdul Gani as voters in the different wards thereof. The position, therefore, boils down to this that the electoral roll number of the proposer having been given from an entirely different and irrelevant electoral roll, his name could not possibly be found at the given number in the given ward of the relevant electoral roll and this was certainly a defect in the filling up of the nomination form. We are further disposed to hold that the error with which we have to deal in this case is of a radical or fundamental character and cannot be ignored or condoned as merely clerical.

In support of his argument, learned counsel for the appellant relied on *Ram Singh v. Hazari Lal* (2), *Gurnam Singh v. Partan Singh* (3) *Jaswant Singh v. Mengal Das* (4), *Rosamma Punaese v. K. Balakrishnan Nair* (5) and *Smt. Om Prabha Jain v. Gian Chand* (6).

(1A) XXII E.L.R. 366.

(2) VI E.L.R. 224. (3) VII E.L.R. 338.

(4) IX E.L.R. 385. (5) XIV E.L.R. 210.

(6) A.I.R. 1960 Punjab 526.

In the case of *Ram Singh v. Hazari Lal* referred to above, it was held that where the electoral roll is sub-divided into parts and separate serial numbers are assigned to the elector entered in each part, the requirement that a description of the part in which the name of the person concerned is entered must also be given in Items Nos. 8, 10 and 14 of the nomination form, is not a mandatory but a directory provision, and that if the identity of the candidate in question is not in doubt, the mere omission to state the part of the electoral roll in which the candidate's name is entered would not invalidate the nomination paper, and further that even if there is any doubt about the identity, if it can be cleared by the Returning Officer by holding a summary inquiry under section 36, he should do so. This is a decision of an election tribunal which was presided over by Mr. Justice K. K. Sharma, then a Judge of this High Court. The authority of this case seems to us to be considerably shaken by a subsequent decision of this High Court in *Brij Sunder Sharma v. Election Tribunal* (7) to which Mr. Justice Sharma was himself a party. As the facts of this case are nearest to the case before us, we should like to state them briefly. In this case, the electoral roll of a constituency prepared in 1951 was superseded by another electoral roll which was prepared in 1952. In a nomination paper filed in 1953, the serial number of the candidate as it appeared in the electoral roll of 1951 was given, and a certified copy of this electoral roll was also annexed to the nomination paper. A certified copy of the roll of 1952 was further produced at the time of the scrutiny of the nominations. The Returning Officer refused to allow the serial number to be corrected at the time of scrutiny and rejected the nomination paper on the ground that it did not comply with S. 33(1) of the Act. As the result of an election petition by the candidate whose nomination paper was rejected the dispute came before an election tribunal. The majority of the members held that there was a substantial defect in the nomination as originally filed, but as a certified copy of the electoral roll of 1952 was produced at the time of scrutiny and the candidate's name appeared in the roll and there was no dispute as to the identity of the candidate, the nomination was improperly rejected. The Chairman who was in the minority held that there was a substantial non-compliance with the provisions of S. 33 of the Act and that this defect was not cured by the production of a certified copy of the roll of 1952 at the time of scrutiny and therefore the nomination was properly rejected. The High Court in a writ application under articles 226 and 227 held reversing the judgment of the majority that the giving of the serial number of the candidate as from the superseded roll and not giving the number in the roll which was in force at the time of the nomination was equivalent to giving no number at all and amounted to a substantial non-compliance with the provisions of S. 33. It further held that the mistake was not merely a clerical or printing error and therefore could not be rectified at the time of scrutiny. It was also held that the opinion of the majority of the Tribunal that the defect in the nomination lost its substantial character on the production of the roll of 1952 as there was no dispute about the identity of the candidate and the Returning Officer could have easily seen from the copy of the roll of 1952 that the candidate was entered in that roll, was erroneous. It was contended before us that since this decision was given, there has been a change in the statutory law inasmuch as the word "technical" which occurred before the word "defect" in sub-section (4) of S. 36 was removed by Act. No. 27 of 1956. In our opinion, this submission is without any force for the simple reason that a defect which was technical would certainly be not of a substantial character, and, therefore, the use of the word "technical" before "defect" was merely redundant. By the omission of the word "technical", the sub-section has been made more word perfect, but we do not think that its substance has been changed in any manner, and, therefore, this argument is of no avail.

In the next place it was contended that the authority of certain observations made in the above noted case has been shaken by certain decisions of the Supreme Court, and our attention was invited in this connection to *Karnail Singh v. Election Tribunal, Hissar* (8), and *Rangilal v. Dahu Sao* (Supra). We have carefully read this judgment more than once and with all respect it appears to us that if this judgment is construed as any authority for the sweeping proposition that in no case is it possible for the Returning Officer to take evidence to establish the identity of the proposer or the candidate as the case may be and that in every case of error the Returning Officer must be confined to the four corners of the nomination paper before him, then to that extent it must be admitted that there are decisions of the Supreme Court which lay down that to establish the identity of the proposer or the candidate, evidence may be led at the time of the scrutiny where the error is technical and not of a substantial character. This seems to us, with all respect, the true effect of the decisions of their Lordships of the Supreme Court in *Karnail Singh v. Election Tribunal, Hissar* and *Rangilal v. Dahu Sao* (Supra).

(7) XII E.L.R. 216.

(8) X E.L.R. 189.

But even so, it seems to us that where the defect is not merely of a technical character but is of a substantial nature, there is no scope for any further inquiry and the consequence mentioned in S. 36(2)(b) follows remorselessly and the nomination paper has got to be rejected. See *Brijendral Gupta v. Jwalaprasad* (Supra). In this case, the candidate omitted to mention his age in the nomination paper. The nomination paper was consequently rejected by the Returning Officer. It was contended that in the electoral roll the age of the candidate was specified, and, therefore, the Returning Officer could have satisfied himself easily as to that by looking at the electoral roll. It was held by their Lordships that if the nomination paper of a candidate does not comply with the provisions of S. 33 and the defect is not of a substantial character, the Returning Officer shall not reject the nomination paper on the ground of that defect. But if on the other hand, the defect is of a substantial character, the Returning Officer has to reject the nomination paper on the ground of the said defect, and that this was the inevitable effect of the provisions of S. 36(2)(b) and (4) read together. It was further held that in such a case no inquiry was necessary or could be demanded.

Having regard to the decision of the Supreme Court to which we have referred, the authority of the decision of this Court in *Brij Sunder Sharma v. Election Tribunal* (Supra) cannot be considered to have been shaken where the defect appears to be not merely of a clerical or a technical nature but amounts to a substantial one. The principle of that decision appears to be fully binding on us under the circumstances, and we see no valid reason to depart from it, and in this view of the matter, we consider it unnecessary to deal with other cases except *Smt. Om Prabha Jain v. Gian Chand* (Supra) relied on by learned counsel for the appellant. In this case, the candidate omitted to mention his electoral roll number from the relevant electoral roll because his name was not included therein on the date of the nomination but was added to it before the date of the scrutiny. An objection was raised to the appellant's nomination on the ground that when she had filed the nomination paper, she was not an elector as her name was not on the electoral roll. The Returning Officer however over-rules this objection. The appellant was in due course elected and this led to an election petition by a rival candidate. The Election Tribunal set aside the election. On appeal to the High Court, that decision was reversed and it was held that under the circumstances the failure of the candidate to mention her electoral roll number was not a substantial defect invalidating the nomination paper. It seems to us that this was a very peculiar case, for as the learned Judges pointed out, the candidate could not have mentioned her electoral roll number at the time of the filing of the nomination paper. But from this decision it would be going too far to hold that where the failure to mention such number altogether or to mention it correctly arises not from any inherent possibility to do such a thing but from sheer gross negligence or a similar other cause, it would not amount to a substantial defect entailing the consequence of rejection under S. 36(2)(b).

The proper question which thus falls for consideration in a case of this kind is whether the defect disclosed in the nomination paper is one of a merely technical or a clerical nature or is a more radical or a fundamental one and is one of a substantial character. If the defect is of the former type, it is capable of being remedied and other evidence may be given an identity of the candidate or the proposer as the case may be could be established by a summary inquiry with the result that the nomination need not and should not be rejected. But if, on the other hand, the defect is of a substantial character, then no other inquiry on the view taken by their Lordships of the Supreme Court in *Brijendra Lal Gupta's* case is possible and the nomination paper has to be rejected under S. 36(2)(b) of the Act.

Applying then the law as it emerges from the discussion made above, let us see how it works out in the present case. On the question whether the defect in the nomination paper before us is of a substantial character or not, our conclusion is that it is anything but unsubstantial. It must, therefore, follow that such a defect could neither be corrected at the stage of the presentation of the nomination paper nor it could be ignored at the subsequent stage of the scrutiny thereof. Section 36(2)(b) of the Act is at once attracted into application and must lead to the rejection of the nomination paper. There is no scope for any further inquiry as to the identity of the candidate or the proposer in such a case. In this view of the matter, the contention of learned counsel for the appellant that if he had known the correct time for the scrutiny of the nomination paper by the Returning Officer, which was to be held on the 22nd January, 1962, he would have led evidence to prove his identity assuming that it is correct, although our finding in agreement with the Tribunal is that it is not, completely fails to the ground. So also the evidence of some of his witnesses that the proposer had been traced out by some of them to the Returning Officer for such an endeavour could not and need not have been made. But if we were to give our finding on the factual aspect of this part of the case, we should like to observe that we are not able to see any strength in this plea because there is no mention whatever of any such attempt having been made much

less proved fruitful in the election petition itself. This part of the appellant's case, therefore, clearly seems to us to be the result of an after thought and does not deserve to be believed though, as we have already pointed out above, on the law as we understand it to be applicable to the instant case, the appellant could not ask for any opportunity to establish his proposer's identity at the stage of the scrutiny of the nomination paper, and, therefore if he did not have any, we are unable to see that any prejudice has been caused to him thereby.

For the reasons mentioned above, this appeal fails and is hereby dismissed with costs. We assess the counsel's fee at Rs. 300/-.

Sd/- B. P. BERI,
[No. 82/245/62.]

(Seal)

By Order,
PRAKASH NARAIN, Secy.

MINISTRY OF HOME AFFAIRS

New Delhi, the 14th September 1964

S.O. 3377.—In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules, namely:—

1. Short title.—These rules may be called the Block Development Officer (Andaman and Nicobar Islands) Recruitment Rules, 1964.

2. Application.—These rules shall apply to the posts of Block Development Officers in the Union territory of Andaman and Nicobar Islands.

3. Number, classification, scale of pay, etc.—The number of the said posts, the classification thereof, the scale of pay attached thereto, the age limit, qualifications and other matters relating to the said posts shall be as specified in the Schedule hereto annexed.

4. Disqualifications.—(1) No person, who has more than one wife living or who, having a spouse living, marries in any case in which such marriage is void by reason of its taking place during the life-time of such spouse, shall be eligible for appointment to the said posts; and

(2) no woman, whose marriage is void by reason of the husband having a wife living at the time of such marriage or who has married a person who has a wife living at the time of such marriage, shall be eligible for appointment to the said posts:

Provided that the Central Government may, if satisfied that there are special grounds for so ordering, exempt any person from the application of this rule.

SCHEDULE
Recruitment rules for the post of Block Development Officer, Andaman and Nicobar Islands.

Name of Post.	No. of posts.	Classification.	Scale of pay.	Whether Selection Post or non-selection Post.	Age limit for direct recruits.	Educational and other qualifications required for direct recruits.	Whether educational and other qualifications prescribed for the direct recruits.	Period of probation, if any.	Method of rectt. or by deputation/transfer & percentage of the vacancies to be filled by various methods.	In case of rectt. by promotion deputation/transfer, grades from which promotion deputation/transfer to be made.	If a DPC exists, what is its composition.	Circumstances in which U.P.S.C. is to be consulted in making rectt.
1	2	3	4	5	6	7	8	9	10	11	12	13
Block Development Officer.	3	General Central Service, Class II, Gazetted.	Rs. 325—15—475.	Selection.	Not applicable.	Not applicable.	Not applicable.	2 years	By promotion failing which by transfer/deputation.	Promotion : Tahsildars (Rs. 230—425) and Extension Officers (Rs. 210—425) in the Andaman and Nicobar Administration with 6 years' service in the respective grades. Transfer/Deputation of officers holding analogous posts under State Governments or under Governments of Union territories. (Period of deputation shall not ordinarily exceed 3 years.)	Class II DPC.	As required under the rules.

[No. 4/71/63-ANL.]

M. B. MALHOTRA, Under Secy.

ERRATA

New Delhi, the 16th September 1964

S.O. 3378.—In the Order of the Government of India in the Ministry of Home Affairs dated the 14th August, 1964, published as S.O. 2814 in the Gazette of India Extraordinary, Part II, Section 3(ii) dated 17th August, 1964, at pages 717 to 723—

1 at page 718.—

in paragraph 3, proviso to clause (a), in line 5, for the words "this office" read "his office".

2 at page 719.—

(a) in sub-paragraph (5)(ii) of paragraph 3, in line 3, omit "the" after the words "sub-section (3) of"

(b) in paragraph 5, in the 1st line, read "The" for "the" after the brackets and figure '(1)',

3 at page 721,—

in paragraph 2 of the Schedule—

(a) in lines 5 and 6 for "Rajisthan" read "Rajasthan",

(b) in line 7 delete ',' after the word "section",

(c) in line 8 for 'as from the date' read "as from that date,"

[No. F. 8/1/62-SR(R).]

K. R. PRABHU, Dy. Secy.

MINISTRY OF FINANCE

(Department of Expenditure)

New Delhi, the 8th September 1964

S.O. 3379.—In exercise of the powers conferred by the proviso to article 309 and clause (5) of article 148 of the Constitution and after consultation with the Comptroller and Auditor General in relation to persons serving in the Indian Audit and Accounts Department, the President hereby makes the following rules further to amend the Contributory Provident Fund Rules (India), 1962, namely—

These Rules may be called the Contributory Provident Fund (India) Seventh Amendment Rules, 1964.

2. In the Contributory Provident Fund Rules (India) 1962—

(i) in Note (3) to sub-rule (4) of rule 4, after the words "controlled by Government", the words and figures "or an autonomous organisation, registered under the Societies Registration Act, 1860", shall be inserted;

(ii) in rule 33, in Explanation III, after the words "controlled by Government", wherever they occur, the words and figures "or an autonomous organisation, registered under the Societies Registration Act, 1860", shall be inserted;

(iii) in Note (3) to rule 36, after the words "controlled by Government", the words and figures "or an autonomous organisation, registered under the Societies Registration Act, 1860", shall be inserted.

[No. F. 27(9) EV(B)/64-C.P.F.]

New Delhi, the 10th September 1964

S.O. 3380.—In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules further to amend the Contributory Provident Fund Rules (India), 1962, namely:—

1. The Rules may be called the Contributory Provident Fund (India) Fifth Amendment Rules, 1964.

2. In the Contributory Provident Fund Rules (India), 1962, in the Fifth Schedule, in paragraph 2, after the entry "Directors of the Survey of India, in respect of Class III and Class IV officers under their control", the following entry shall be inserted, namely:—

"Directors of the Small Industries Service Institute."

[No. F. 27(7)-EV(B)/64 C.P.F.]

S.O. 3381.—In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules further to amend the General Provident Fund (Central Services) Rules, 1960, namely:—

1. These Rules may be called the General Provident Fund (Central Services) Sixth Amendment Rules, 1964.

2. In the General Provident Fund (Central Services) Rules, 1960, in the fifth Schedule, in paragraph 2, after the entry “Directors of the Survey of India, in respect of Class III and Class IV Officers under their control”, the following entry shall be inserted, namely:—

“Directors of the Small Industries Service Institute.”

[No. 27(7) EV(B)/64-G.P.F.]

S.O. 3382.—In exercise of the powers conferred by the proviso to article 309 and clause (5) of article 148 of the Constitution, the President, after consultation with the Comptroller & Auditor General in relation to persons serving in the Indian Audit and Accounts Department, hereby makes the following further amendments to the Regulations governing procedure for the Commutation of Pension, namely:—

In the said Regulations,

(i) for regulation 1, the following regulation shall be substituted, namely:—

“1. An application for commutation of pension should be made in Part I of Form A appended to these regulations accompanied by two passport size photographs (one duly attested and the other without any attestation), and addressed to the authority mentioned in rule 5 of the Civil Pensions (Commutation) Rules. The attested copy of the photograph should be pasted on the Form of Application at the space provided for the purpose and the other copy loosely attached to it.”

(ii) regulation 2 shall be omitted.

[No. F. 2(4)-EVB/64.]

S.O. 3383.—In exercise of the powers conferred by the proviso to article 309 and clause (5) of article 148 of the Constitution and after consultation with the Comptroller and Auditor General in relation to persons serving in the Indian Audit and Accounts Department, the President hereby makes the following rules further to amend the General Provident Fund (Central Services) Rules, 1960, namely:—

These Rules may be called the General Provident Fund (Central Services) Eighth Amendment Rules, 1964.

2. In the General Provident Fund (Central Services) Rules, 1960,—

(i) in rule 31, in Explanation III, after the words “controlled by Government”, wherever they occur, the words and figures “or an autonomous organisation, registered under the Societies Registration Act, 1860”, shall be inserted;

(ii) in rule 35-A, after the words “controlled by Government”, the words and figures “or an autonomous organisation, registered under the Societies Registration Act, 1860”, shall be inserted.

[No. F. 27(9)-EVB/64-G.P.F.]

C. K. SUBRAMANIAN, Under Secy.

(Department of Economic Affairs)
New Delhi, the 17th September 1964

S.O. 3384.—Statement of the Affairs of the Reserve Bank of India, as on the 4th September, 1964.

BANKING DEPARTMENT

LIABILITIES	Rs.	ASSETS	Rs.
Capital paid up	5,00,00,000	Notes	17,99,55,000
Reserve Fund	80,00,00,000	Rupee Coin	4,72,000
National Agricultural Credit (Long Term Operations) Fund	86,00,00,000	Small Coin	6,23,000
National Agricultural Credit (Stabilisation) Fund	9,00,00,000	National Agricultural Credit (Long Term Operations) Fund—	
National Industrial Credit (Long Term Operations Fund	10,00,00,000	(a) Loans and Advances to :—	
Deposits :—		(i) State Governments	28,29,51,000
(a) Government:		(ii) State Co-operative Banks	12,42,33,000
(i) Central Government	134,65,03,000	(iii) Central Land Mortgage Banks	
(ii) State Governments	15,63,93,000	(b) Investment in Central Land Mortgage Bank Debentures	4,39,95,000
(b) Banks:		National Agricultural Credit (Stabilisation) Fund—	
(i) Scheduled Banks	95,15,73,000	Loans and Advances to State Co-operative Banks	
(ii) State Co-operative Banks	2,60,02,000	National Industrial Credit (Long Term Operations) Fund—	
(iii) Other Banks	6,51,000	(a) Loans and Advances to the Development Bank	
(c) Others	143,87,24,000	(b) Investment in bond/debentures issued by the Development Bank	
Bills Payable	45,97,66,000	Bills purchased and discounted:—	
Other Liabilities	25,43,75,000	(a) Internal	
		(b) External	
		(c) Government Treasury Bills	195,01,98,000
		Balances Held Abroad*	12,34,13,000
		Loans and Advances to Governments**	18,23,67,000
		Loans and Advances to :—	
		(i) Scheduled Banks†	5,22,80,000
		(ii) State Co-operative Banks††	153,46,72,000
		(iii) Others	2,50,78,000
		Investments	177,34,12,000
		Other Assets	26,00,38,000
Rupees	653,36,87,000	Rupees	653,36,87,000

*Includes Cash and Short-term Securities.

**Excluding Loans and Advances from the National Agricultural Credit (Long Term Operations) Fund, but including temporary overdrafts to State Governments.

†Includes Rs. 2,09,00,000 advanced to scheduled banks against usance bills under section 17(4)(c) of the Reserve Bank of India Act.

†† Excluding Loans and Advances from the National Agricultural Credit (Long Term Operations) Fund and the National Agricultural Credit (Stabilisation) Fund.

Dated the 8th day of September, 1964.

In Account pursuant to the Reserve Bank of India Act, 1934, for the week ended the 4th day of September, 1964.

ISSUE DEPARTMENT

LIABILITIES	Rs.	Assets	Rs.	Rs.
Notes held in the Banking Department		Gold Coin and Bullion :—		
Notes in circulation	17,99,55,000	(a) Held in India	117,76,10,000	
Notes in circulation	2407,49,13,000	(b) Held outside India		
Total Notes issued	2425,48,68,000	Foreign Securities	85,45,69,000	
		TOTAL		203,21,79,000
		Rupee Coin		106,33,66,000
		Government of India Rupee Securities		2115 93,23,000
		Internal Bills of Exchange and other commercial paper		
TOTAL LIABILITIES	2425,48,68,000	TOTAL ASSETS		2425,48,68,000

Dated the 8th day of September, 1964.

M. V. RANGACHARI,
Deputy Governor.

[No. F. 3(2)-BC/64.]

(Department of Economic Affairs)

New Delhi, the 19th September 1964

S.O. 3385.—Statement of the Affairs of the Reserve Bank of India, as on the 11th September, 1964.

BANKING DEPARTMENT

LIABILITIES	Rs.	ASSETS	Rs.
Capital paid up	5,00,00,000	Notes	23,90,11,000
Reserve Fund	80,00,00,000	Rupee Coin	3,51,000
National Agricultural Credit (Long Term Operations) Fund	86,00,00,000	Small Coin	6,63,000
National Agricultural Credit (Stabilisation) Fund	9,00,00,000	National Agricultural Credit (Long Term Operations) Fund— (a) Loans and Advances to :— (i) State Governments	28,29,51,000
National Industrial Credit (Long Term Operations) Fund	10,00,00,000	(ii) State Co-operative Banks	12,23,72,000
Deposits		(iii) Central Land Mortgage Banks	
(a) Government (i) Central Government	87,31,70,000	(b) Investment in Central Land Mortgage Bank Debentures	4,39,95,000
(ii) State Governments	26,86,92,000	National Agricultural Credit (Stabilisation) Fund— Loans and Advances to State Co-operative Banks	
(b) Banks (i) Scheduled Banks	98,90,18,000	National Industrial Credit (Long Term Operations) Fund— (a) Loans and Advances to the Development Bank	
(ii) State Co-operative Banks	2,72,21,000	(b) Investment in bonds/debentures issued by the Develop- ment Bank	
(iii) Other Banks	3,71,000	Bills purchased and Discounted :— (a) Internal	
(c) Others	138,86,39,000	(b) External	
Bills Payable	41,15,47,000	(c) Government Treasury Bills	206,53,62,000
Other Liabilities	24,01,16,000	Balances Held Abroad*	11,05,63,000
		Loans and Advances to Governments**	15,83,00,000
		Loans and Advances to :— (i) Scheduled Banks †	2,03,60,000
		(ii) State Co-operative Banks ‡‡	148,20,74,000
		(iii) Others	2,44,38,000
		Investments	123,66,14,000
		Other Assets	26,17,20,000
Rupees	609,87,74,000	Rupees	609,87,74,000

*Includes Cash and Short-term Securities.

**Excluding Loans and Advances from the National Agricultural Credit (Long Term Operations) Fund.

†Includes Rs. 50,00,000 advanced to scheduled banks against usance bills under Section 17(4) (c) of the Reserve Bank of India Act.

‡‡Excluding Loans and Advances from the National Agricultural Credit (Long Term Operations) Fund and the National Agricultural Credit (Stabilisation) Fund.

Dated the 16th day of September, 1964

An Account pursuant to the Reserve Bank of India Act, 1934, for the week ended the 11th day of September 1964.

ISSUE DEPARTMENT

LIABILITIES	Rs.	ASSETS	Rs.
Notes held in the Banking Department		Gold Coin and Bullion :—	
.	28,90 11,000	(a) Held in India	117,76,10,000
Notes in circulation	2,421,16,63,000	(b) Held outside India
Total Notes issued	2450,06,74,000	Foreign Securities	85,45,69,000
		TOTAL	203,21,79,000
		Rupee Coin	105,91,72,000
		Government of India Rupee Securities	2140,93,23,000
		Internal Bills of Exchange and other commercial paper
TOTAL LIABILITIES	2450,06,74,000	TOTAL ASSETS	2450,06,74,000

M. V. RANGACHARI,
Deputy Governor.

Dated the 16th day of September, 1964.

[No. F.3(2)-BC/64.]

R. K. SESHADRI,
Director (Banking & Insurance).

CENTRAL BOARD OF DIRECT TAXES

INCOME-TAX

New Delhi, the 18th September 1964

S.O. 3386.—In exercise of the powers conferred by sub-section (1) of section 122 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following amendment in its Notification No. 49-Income-tax, dated the 27th July, 1964, namely:—

In para 2 of the said notification for the words “the date of this notification” the date “1-9-1964” shall be substituted.

[No. 68 (F. No. 50/11/64-ITJ).]

T. N. PANDEY, Under Secy.

MINISTRY OF COMMERCE

Bombay, the 4th August, 1964

S.O. 3387.—In exercise of the powers conferred by section 3 of the Essential Commodities Act, 1955 (10 of 1955), the Central Government hereby makes the following Order to amend the Textiles (Production by Knitting, Embroidery, Lace Making and Printing Machines) Control Order 1963, namely:—

- 1 This Order may be called the Textiles (Production by Knitting, Embroidery, Lace Making and Printing Machines) Control (Amendment) Order, 1964.
2. In the Textiles (Production by Knitting, Embroidery, Lace Making and Printing Machines) Control Order, 1963, in the proviso to sub-clause 3, for the figures and word “180 days”, the figures and words “1 year” shall be substituted and shall be deemed always to have been substituted.

[No. F. 2(15)/61-Control.]

R. DORAISWAMY, Jt. Secy

(Office of the Joint Chief Controller of Imports & Exports)

ORDER

Calcutta, the 22nd August 1964

S.O. 3388.—Whereas Messrs, Eastern Assam Chemical Industries (Private) Ltd., P.O. Dibrugarh, District Lakhimpur Assam, or any Bank or any other person have not furnished sufficient cause against licence No. P/SS/1516253/C/XX/17/C/S 17.18 dated 31st January 1964 proposing to cancel licence No. P/SS/1516253/C/XX/17/C/S 17.18 dated 31st January 1964 valued at Rupees Three thousand seven hundred and fifty only (Rs. 3750/- only) for the import of Citric Acid falling under Sr. No. 22-31-V of the Import Trade Control Schedule from the General Area except South and South West Africa granted to the said M/s. Eastern Assam Chemical Industries (P) Ltd., P.O. Dibrugarh, Assam, by the Joint Chief Controller of Imports and Exports, Calcutta.

The Government of India, in the Ministry of Commerce in exercise of the powers conferred by clause 9 of the Imports (Control) Order, 1955, hereby cancel the said licence No. P/SS/1516253/C/XX/17/C/S 17.18 dated 31st January 1964 issued to the said Messrs. Eastern Chemical Industries (Private) Ltd., P.O. Dibrugarh, Assam.

[No. 39/64/I&L.]

D. D. BHARGAVA, Dy. Chief Controller.

MINISTRY OF INDUSTRY AND SUPPLY

(Department of Industry)

ORDER

New Delhi, the 18th September 1964

S.O. 3389/IDRA/18G/64.—In exercise of the powers conferred by section 18G of the Industries (Development and Regulation) Act, 1951 (65 of 1951), the Central

Government hereby makes the following Order further to amend the Cement Control Order, 1961, namely:—

1. This Order may be called the Cement Control (Eighth Amendment), Order 1964.
2. In the Schedule to the Cement Control Order, 1961, in the Table below paragraph (C) for the entry against Serial No. 1 the following entry shall be substituted, namely:—

TABLE

Name of the Producer	Extra amount per tonne	Date from which the additional amount may be charged.
" r. M/s. India Cements Ltd., Madras.		
Talaiyuthu Works	Rs. 1.45	1st June, 1963
	Rs. 1.15	1st July, 1964
	Rs. 2.23	7th July, 1964
Sankaridug Work,	Rs. 5.93	1st April, 1964
	Rs. 7.77	1st July, 1964."

[No. 8-29/63-CEM. II]

R. NATARAJAN, Under Secy.

(Indian Standards Institution)

New Delhi, the 14th September, 1964.

S.O. 3390.—In licence No. CM/L-170 dated 11th March 1960 held by The Britannia Biscuit Co. Ltd., 15 Taratala Road, Calcutta, the details of which are published under S.O. 1146 in the Gazette of India, Part II, Section 3 (ii) dated 20 April 1963, the following varieties were covered:—

Glaxo, Bourbon, Bournvita, Dainty Cream, Nice, Digestive, Orange Cream, Circus, Petit Beurre, Marie, Cottage Cream, Ginger Nuts, Embassy Cream, Thin Arrowroot, Cream Crackers, Nimki, Golden Puff, Cheeselots, Brita, Zesta, Coconut Cookies, Club Snax, Fruit Cream.

A new variety of biscuits, namely, 'Horlicks' has now been included with effect from 1 September 1964.

[No. MD/12:269.]

S.O. 3391.—In licence No. CM/L-171 dated 11 March, 1960 held by The Britannia Biscuit Co. Ltd., Reay Road, East Mazagaon, Bombay-10, the details of which are published under S.O. 1164 in the Gazette of India, Part II, Section 3(ii) dated 21 April 1962, a new variety of biscuits namely 'Horlicks' has been included with effect from 16 September 1964.

[No. MD/12:309.]

S.O. 3392.—In pursuance of sub-regulation (1) of regulation 5 of the Indian Standards Institution (Certification Marks) Regulations, 1955, as amended in 1961, 1962, and 1964, the Indian Standards Institution hereby notifies that the Indian Standard, particulars of which are given in the Schedule hereto annexed, has been cancelled.

THE SCHEDULE

Sl. No. and Title of the Indian Standard cancelled No.	No. and date of the Gazette No- tification in which establishment of the Indian Standard was notified.
I IS : 1549-1960 Specification for Steel Drums and Kegs (Galvanised and Ungalvanised).	S.O. 2499 dated 7 October, 1960 published in the Gazette of India, Part II, Section 3, Sub-section(v) dated 15th October 1960.

[No. MD/13:7]

New Delhi, the 16th September 1964

S.O. 3393.—In licence No. CM/L-673 held by M/s. Elite Electrical Industries, Delhi, the details of which are given in the Notification published under S.O. 2173 in the Gazette of India, Part II, Section 3(ii) dated 20th June 1964, the following additional-type of Electric Irons has been included with effect from 16th September 1964.

Electric Irons, Non-Thermostatic Type, of Voltages not Exceeding 250 Volts (450 Watts).

[No. MD/12: 834.]

D. V. KARMARKAR, Jt. Director (Marks).

MINISTRY OF STEEL AND MINES

(Department of Mines and Metals)

New Delhi, the 17th September 1964

S.O. 3394.—In exercise of the powers conferred by clause (c) of sub-section (2) of section 3 of the Essential Commodities Act, 1955 (10 of 1955), read with clause 4 of the Colliery Control Order, 1945 as continued in force by section 16 of the said Act, the Central Government hereby makes the following amendment in the notification of the Government of India in the late Ministry of Steel, Mines and Heavy Engineering (Department of Mines and Metals), No. S.O. 1997, dated the 5th June, 1964, namely:—

In the said notification, the Table headed "Table I(e)—Washed Coking Coal" shall be omitted.

[No. C5-12(17)/64.]

K. SUBRAHMANYAN, Under Secy.

(Department of Iron and Steel)

New Delhi, the 17th September 1964

S.O. 3395./ESS. COMM/IRON & STEEL/15(1).—The following notification issued by the Iron and Steel Controller under sub-clause 1 of clause 15 of the Iron and Steel (Control) Order, 1956 is published for general information:

"NOTIFICATION

In exercise of the powers conferred by Sub-Clause (1) of Clause 15 of the Iron and Steel (Control) Order, 1956 as amended from time to time and with the approval of the Central Government, the Iron and Steel Controller notifies the

following addendum to the notification No. S.O. 2249-ESS COMM/Iron & Steel/ 15(1) and 27(1) dated 18th October, 1958 published in Part II, Section 3(ii) of the Gazette of India dated 1st November, 1958.

ADDENDUM

APPENDIX 1—*Extras List*

T-Miscellaneous Extras on all Steels.

Special quality—

<i>Item II</i>	<i>Extra per M/Ton</i>
(b) Deep Drawing quality Plates	Rs. 14.76

The above addendum should be deemed to have taken effect from the date of the publication of this notification in the Gazette of India.

S. C. MUKHERJEE, Iron and Steel Controller".

[No. SC(C)-2(25)/64.]

CORRIGENDUM

New Delhi, the 16th September 1964

S.O. 3396.—In the Notification of the Government of India in the Ministry of Steel and Mines (Department of Iron and Steel) No. S.O. 3314/ESS-COMM/IRON AND STEEL/64 dated the 8th September, 1964 published in Part II, Section 3 Sub-Section (ii) of the Gazette Extraordinary dated the 9th September, 1964, below para No. 2 read:—

For

2. The increase in price will not be applicable for Tinplate Waste Waste full same as before and shall also be applicable to Tinplate Waste Waste.

Read

3. The general and special conditions of sale for tinplates will remain the same as before and shall also be applicable to Tinplate Waste Waste.

[No. SC(C)-2(8)/64.]

A. N. RAJAGOPALAN, Under Secy.

MINISTRY OF FOOD AND AGRICULTURE

(Department of Agriculture)

New Delhi, the 4th September 1964

S.O. 3397.—In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules to amend the Delhi Zoological Park (Class I Posts) Recruitment Rules, 1964, published with the notification of the Government of India in the Ministry of Food and Agriculture, (Department of Agriculture) No. 25-29/63-FD, dated the 8th July, 1964, namely:—

1. These rules may be called the Delhi Zoological Park (Class I Posts) Recruitment (Amendment) Rules, 1964.

2. In the Schedule to the Delhi Zoological Park (Class I Posts) Recruitment Rule 1964, below the entry in Column 7 against item 1, the following words shall be inserted namely:—

“Qualifications relaxable at Commission's discretion in case of candidates other-wise well qualified.”

[No. 25-29/63-FD.]

S. N. TULSIANI, Under Secy.

(Department of Agriculture)

New Delhi, the 15th September 1964

S.O. 3398.—In pursuance of sub-section (1) of section 15 of the Prevention of Cruelty to Animals Act, 1960 (59 of 1960), the Central Government, on the advice of the Animal Welfare Board, hereby establishes, with effect from the 21st September, 1964, a Committee for the purpose of controlling and supervising experiments on animals, consisting of the following persons, namely:—

1. Dr. C. Gopalan, Director, Nutrition Research Laboratories, Hyderabad.
2. The Director, Central Research Institute, Kasauli.
3. Dr. B. K. Bhattacharya, Assistant Director, Central Drug Research Institute, Lucknow.
4. Dr. R. B. Arora, Professor of Pharmacology, All India Institute of Medical Sciences, New Delhi.
5. Dr. A. P. Ray, Deputy Director General of Health Services, New Delhi.
6. The Director, Haffkine Institute, Bombay.
7. The Director, Indian Veterinary Research Institute, Izatnagar.
8. Dr. E. R. B. Sanmugasundaram, Professor of Bio-Chemistry, University of Madras, Madras.
9. Dr. B. K. Aikat, Professor of Pathology, Institutes of Post-Graduate Medical Education, Punjab, Chandigarh.
10. Shri Sita Ram Jaipuria, Member, Rajya Sabha.
11. Shrimati Jayaben Shah, Member, Lok Sabha.
12. Shri Kamal Nayan Bajaj, Member, Lok Sabha.
13. Shrimati Rukmini Devi Arundale, Chairman, Animal Welfare Board, Gandhinagar, Madras-20.
14. Shri M. L. Dwivedi, Member, Animal Welfare Board, Gandhinagar, Madras-20.
15. Shri J. N. Mankar, Member, Animal Welfare Board, Gandhinagar, Madras-20.
16. Dr. P. Mehta, Flat No. 5, A Road, Churchgate, Bombay-1.

2. In pursuance of sub-section (2) of section 15 of the said Act, the Central Government hereby nominates Shri Kamal Nayan Bajaj to be the Chairman of the said Committee.

[No. 9-19/62-LD.]

T. SRINIVASAN, Dy. Secy.

(Department of Agriculture)

New Delhi, the 15th September 1964

S.O. 3399.—In exercise of the powers conferred by section 3 of the Agricultural Produce (Grading and Marking) Act, 1937 (1 of 1937), the Central Government hereby makes the following rules further to amend the Hides Grading and Marking Rules, 1937, the same having been previously published as required by the said section, namely:—

1. These rules may be called the Hides Grading and Marking (Second Amendment) Rules, 1964.
2. In Schedule I to the Hides Grading and Marking Rules, 1937, in column 4 against Grade 'B' for the words "In the case of Kids and buffalo hides" the words "In the case of Kips and buffalo hides" shall be substituted.

[No. F. 17-17/64-AM.]

S.O. 3400.—The following draft rules which the Central Government propose to make in exercise of the powers conferred by section 3 of the Agricultural Produce (Grading and Marking) Act, 1937 (1 of 1937), are published, as required by the said section, for the information of all persons likely to be affected thereby and notice is hereby given that the said draft will be taken into consideration on or after 25th October, 1964.

Any objection or suggestion which may be received from any person with respect to the said draft before the date specified above will be considered by the Central Government.

Draft Rules

1. Short title and application.—(i) These rules may be called the Cashew Shell Oil (Liquid) Grading and Marking Rules, 1964.

(ii) They shall apply to cashew-shell oil (Liquid) produced in India.

2. Definitions.—In these rules,—

(i) 'Agricultural Marketing Adviser' means the Agricultural Marketing Adviser to the Government of India.

(ii) 'Schedule' means a schedule appended to these rules.

3 Grade designation.—The grade designation to indicate the quality of cashew-shell oil (Liquid) shall be as set out in column 1 of Schedule III.

4 Definition of Quality. The quality indicated shall be as set out against the grade designation in columns 2 to 11 of Schedule III.

5 Grade Designation Mark.—The Grade designation mark shall consist of a label specifying the name of the commodity, the grade designation bearing a design (Consisting of an outline map of India with the word 'AGMARK' and the figure of the rising sun, with the words 'Produce of India' and 'भारतीय उत्पाद') resembling the one set in Schedule I and in colours specified in the aforesaid Schedule

6 Methods of Marking.—The Grade designation mark shall be securely affixed to each container in a manner approved by the Agricultural Marketing Adviser and shall clearly show the following particulars, namely:—

(a) name of packer;

(b) place of packing;

(c) date of packing; and

(d) lot number.

(2) An authorised packer may after obtaining the prior approval of the Agricultural Marketing Adviser, mark his private trade mark on a container, in a manner approved by the said officer, provided that the private trade mark does not represent quality or grade of cashew-shell oil (Liquid) different from that indicated by the grade designation mark affixed to the container in accordance with these rules.

7. Method of Packing.—(i) Only sound clean and dry containers shall be used for packing.

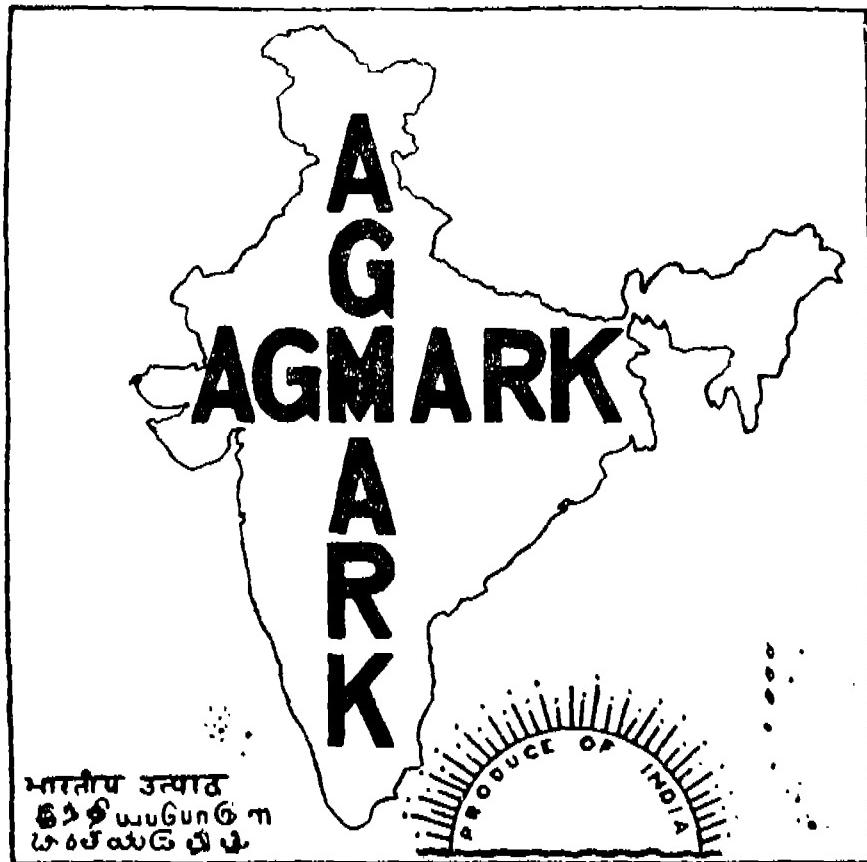
(ii) The containers shall be securely closed and sealed in such manner as may be prescribed by the Agricultural Marketing Adviser.

8. Special conditions of certificate of Authorisation.—In addition to the conditions specified in rule 4 of the General Grading and Marking Rules, 1937, the conditions set out in Schedule II shall also be the conditions subject to which a certificate of Authorisation is issued for the purpose of the said rules.

SCHEDULE I

(A) Grade designation mark for cashew shell oil (Liquid)

(See rule 5)



(b) Colour scheme

(1) Cashew-Shell Oil (Liquid)

Grade designation	Colour of lettering showing the grade	Colour of the border of the label
Grade A	Red	Red

SCHEDULE II

(See rule 8)

(a) An authorised packer shall have suitable arrangements for filtration, blending and storage of Cashew-Shell Oil (Liquid).

(b) An authorised packer shall make such arrangements for testing Cashew-Shell Oil (Liquid) as may be prescribed and a duplicate sample from each lot of Cashew-Shell Oil (Liquid) to be graded, shall be forwarded to such control Laboratory as may be notified from time to time by the Agricultural Marketing Adviser.

(c) All instructions regarding the methods of sampling analysis, packing etc, which may from time to time be issued by the Agricultural Marketing Adviser, consistent with the provisions of the Act and rules made thereunder, shall be strictly observed.

SCHEDULE III

(See rules 3 and 4)

Grade designation and definitions of quality of Cashew-Shell Oil (Liquid)

Grade designation	Description and appearance	Physio-Chemical Characteristics									
		Specific gravity at 30° C.	*Viscosity at 30°C in centipoises Max.	*Moisture per cent by wt. Max.	*Matter insoluble in toluene per cent by wt. Max.	*Volatile matter other than moisture per cent by wt. Max.	*Iodine value (wif's) Min.	*Polymerisation Time in minutes Max.	Centipoises at 25° C Min.	*Ash per cent by wt. Max.	
I	2	3	4	5	6	7	8	9	10	II	
Grade A	The Cashew Shell Oil (Liquid) shall be the genuine product obtained from the shells of cashewnuts <i>Anacardium occidentale</i> . It shall not be deeper than dark brown in colour when viewed by transmitted light and shall be free from separated water and extraneous matter.	0.950 to 1.000	550	1.0	1.0	1.0	220	19	30	1.00	

*Adopted from the Indian Standards specifications for Cashewnut Shell Liquid (CNSL) UDC. 665. 325. 563 (083.75) (54)

[No. F. 17-33/63-AM.]

New Delhi, the 17th September 1964

S.O. 3401.—In exercise of the powers conferred by section 3 of the Agricultural Produce (Grading and Marking) Act, 1937 (1 of 1937), the Central Government hereby makes the following rules, the same having been previously published as required by the said section, namely:—

THE ANIMAL CASINGS GRADING AND MARKING RULES, 1964

1. Short title and application.—(1) These Rules may be called the Animal Casings Grading and Marking Rules, 1964.

(2) They shall apply to casings obtained from cattle, sheep, goats and pigs and produced in India.

2. Definitions.—In these rules unless the context otherwise requires,—

- (a) "black node" means black knot usually caused by the residue of the ingesta or slime left behind in the casing;
- (b) "calibration" means,
 - (i) in the case of wet-salted casings, measurement of the diameter of the casing;
 - (ii) in the case of dried casings, flat measure (half circumference).

Explanation.—for the purposes of this clause the diameter shall be found out by inflating the casing with air or water and measuring the diameter by means of suitable calibration frames after properly stretching out the casing wall and taking the mean of several readings;

- (c) "cattle" includes bull, cow, ox, heifer, calf, steer, bullock and buffalo;
- (d) "cattle casing" means,
 - (i) Fat End (the terminal end of the larger intestine measuring about 1.5 meters in length from the anus).
 - (ii) Middle (remaining part of the large intestine).
 - (iii) Bung (caecal part of the intestine).
 - (iv) Runner (small intestine),
 - (v) Bladder, and
 - (vi) Weasand (gullet or oesophagus);
- (e) "cicatrix" means any scar of healed-up wound;
- (f) "domestic" means any small grease spot in the casing;
- (g) "kink" means any twisted loop in the casing;
- (h) "nodule" means a small rounded structure;
- (i) "rust" means black spots caused by putrefaction due to bacterial or fungal action;
- (j) "salt burn" means areas of discolouration generally caused by—
 - (i) the entry of air into air-tight tin containers in which the casings are packed, and
 - (ii) the use of poor quality salt;
- (k) "Schedule" means a Schedule to these rules.

3. Description of Rings and Hanks.—(1) Casings may consist of bundles of rings or hanks.

(2) (a) In the case of rings of Sheep and Goat Casings, a ring shall contain not more than 4 pieces and shall measure at least 21 metres (69 feet) in length, no single piece measuring less than 1.5 metres (5 feet);

(b) in the case of rings of Hog Casings, a ring shall contain not more than 4 pieces and shall measure at least 9 metres (29 feet), no single piece measuring less than one metre.

(3) (a) In case of Hanks of Sheep and Goat Casings, a hank shall consist of not more than 18 pieces and shall measure not less than 92 metres (302 feet) in length;

(b) in the case of Hanks of Cattle Casings, a hank shall measure in length as follows:

Dried Runners: 180 metres (590 feet);

Dried Middles: 90 metres (295 feet) or in packets of 25 metres;

Salted Runners: 30 metres (98 feet);

Salted Middles: 18 metres (59 feet).

4. Grade designations.—The Grade designations to indicate the quality of casings shall be as set out in column 1 of Schedules I to IV.

5. Characteristics of the various grade designations.—The special and general characteristics of the various grade designations shall be as set out against each designation in columns 2 and 3 of the Schedules I to IV.

6. Grade designation marks.—The grade designation marks shall consist of a label bearing the design set out in Schedule V specifying the grade designation.

7. Method of grading.—Grading of casings shall be done only at the authorised premises and according to the instructions issued from time to time by the Agricultural Marketing Adviser to the Government of India.

8. Inspection.—The Grade designation and other particulars of the casings shall be marked by the Inspecting Officer after the inspection is carried out by him.

9. Certificate of Grading.—A certificate of Grading will be issued by the Agricultural Marketing Adviser to the Government of India, or by an officer authorised by him in this behalf, on a written request from the party.

10. Method of Packing.—Casings shall be packed either in hanks, as the case may be, in rings at the authorised premises and strictly in accordance with the instructions issued in this regard from time to time by the Agricultural Marketing Adviser to the Government of India.

11. Method of Marking.—(1) A grade designation mark label shall be securely affixed to each package in a manner approved by the Agricultural Marketing Adviser to the Government of India.

(2) In addition to the grade Designation, the following particulars shall be clearly indicated on the label; namely:—

1. Serial number,

2. Type,

3. Grade,

4. Calibration,

5. Number of hanks,

6. Date of packings,

7. Signature of the Inspecting Officer.

Provided that an authorised packer may stamp or write his private trade mark on the package, if such private trade marks represent the same type and grade of casings as that indicated by Agmark label and are duly approved by the Agricultural Marketing Adviser to the Government of India beforehand.

12. Special conditions of authorisation.—(1) Casings of one type only shall be packed in one lot.

(2) In addition to the conditions specified in rule 4 of the General Grading and Marking Rules, 1937, every certificate of authorisation issued for the purpose of these rules shall be governed by the following conditions:—

(a) the premises of authorised packers of casings shall be clean, tidy and in good sanitary condition and shall provide adequate space and facilities for cleaning, processing, grading and packing of casings, official inspection and labelling of the inspected packages of casings;

- (b) no establishment shall employ in any department where casings are handled or prepared any person affected with tuberculosis or other communicable diseases in a transmissible stage;
- (c) all instructions regarding sanitation in the premises, cleanliness of personnel and equipment, operational procedure, method of sampling, testing, packing, marking and inspection of casings at all stages and maintenance of records thereof, issued by the Agricultural Marketing Adviser to the Government of India from time to time, shall be observed strictly by all concerned.

SCHEDULE I
(See rules 4 and 5)

Grade designations and definition of quality of dried cattle casings known commercially as "Beef Casings" and produced in India

Grade designation	Calibration		Special characteristics	General Characteristics
	I	2		
P Q	By flat measure (i) in steps of 5mm e.g. 35 mm & below 35 to 40 and so on upto 60 mm. or (ii) in steps of 2mm e.g., 35 mm & below, 35-37mm, 37 to 39 mm and so on upto 60 mm. or (iii) as agreed to between the purchaser and the exporter.	The casings shall : (i) be of uniform natural colour, lustrous throughout, without any spot or mark and shall be free from discolouration. (ii) be intact, free from any tear or laceration. (iii) be perfectly rolled. (iv) be free from salt burns, rust, domestics, black nodes, slime, mucus, dung, moulds or fungus infestations. (v) be free from defects like holes, blisters, lacerations, nodules and cicatrices.	The casings shall : (i) be obtained from healthy animals slaughtered in licensed premises and subjected to ante-mortem and post mortem inspections according to the prescribed procedures. (ii) be prepared under hygienic conditions, wholesome, and otherwise fit for human consumption. (iii) be free from parasitic infestation and from scars of healed up wounds. (iv) not have been subjected to any bacterial activation or fermentation.	
Grade I	Do.	As per P.Q. except that a slight deviation in colour and folds and a few black nodes shall be permitted.		
Grade II	Do.	Casings not conforming to P.Q. or Grade I due to defects in rolling and or having larger black nodes, rough texture, or a few streaks of fat.		
Grade III	Do.	Short pieces of any or all the above grades.		
Bladder	..	Bladder, otherwise conforming to characteristics of P.Q.		
Weasands	..	Weasands, otherwise conforming to characteristics of P.Q.		
Bungs	..	Bungs, otherwise conforming to characteristics of P.Q.		
Fat ends	..	Fat ends, otherwise conforming to characteristics of P.Q.		
Grade X*	As agreed to between the purchaser and the exporter.	As agreed to between the purchaser and the exporter.		

*Grade X will be applicable under the following conditions :—

That the consignment is meant for export against a firm order from foreign importers. The phrase "firm order" shall mean either that the whole of the purchase money is to be paid in cash beforehand or is guaranteed in some other way.

SCHEDULE II
(See rules 4 and 5)

Grade designations and definition of quality of salted cattle casings known commercially as "Beef Casings" and produced in India

Grade designation	Calibration	Special characteristics	General characteristics
			I
P Q . . .	By diameter : (i) In steps of 2 mm e.g., 28 to 30 mm, 30 to 32 and so on upto 40 mm and above or (ii) as agreed to between the purchaser and the exporter.	The casings : (i) shall be of uniform natural colour, lustrous throughout without any spot or mark and shall be free from discolouration. (ii) wall shall be in-tact, free from any tear or laceration. (iii) shall be perfectly rolled. (iv) on being inflated with air, rolled round the finger and pressed, shall burst with a sharp sound. (v) shall be free from salt burns, rust, domestic black nodes, slime, mucus, dung, moulds or fungus infestations. (vi) shall be free from defects like holes, blisters, lacerations, nodules and cicatrices.	(a) The casings shall, (i) be obtained from healthy animals slaughtered in licensed premises and subjected to ante-mortem and post mortem inspections according to the prescribed procedures. (ii) be prepared under hygienic conditions wholesome, and otherwise fit for human consumption. (iii) be free from parasitic infestation and from scars of healed up wounds. (iv) not have been subjected to any bacterial activation or fermentation. (b) Preservatives other than edible common salt shall not have been used.
Bladder	(i) The wall shall be of uniform natural colour, lustrous throughout without any spot or mark and shall be free from discolouration. (ii) The wall shall be in-tact and free from any tear or laceration. (iii) The material shall also be free from salt burns, rust, domestic black nodes, slime, mucus, dung, moulds or fungus infestation. (iv) free from defects like holes, blisters, nodules and cicatrices.	
Weasands	Weasands, otherwise conforming to "Bladder"	
Bungs	Bungs, otherwise conforming to "Bladder".	
Fate ends	Fate ends, otherwise conforming to "Bladder".	

SCHEDULE III

(See rules 4 and 5)

Grades designations and definition of quality of salted sheep casings (including goat casings) known commercially as "Sheep Casings" and produced in India.

Grade designation	Calibration	Special characteristics	General characteristics
			I 2 3 4
PQ or Grade I	(1) 12 to 26 mm in steps of 2 mm <i>e.g., 12 to 14, 14 to 16 etc. or</i> (2) 13 to 27 mm in steps of 2 mm <i>e.g., 13 to 15, 15 to 17 etc.</i> or (3) as agreed to between the purchaser and the exporter.	(a) The casings shall : (i) be of natural colour throughout without any discolouration. (ii) be free from defects, like holes, blisters, lacerations, nodules and cicatrices. (iii) be in-tact and not torn or lacerated. (iv) be free from salt-burns, rust, domestic, black nodes, slime, mucus, dung and moulds or fungus infestations. (v) not burst when filled with air or water to its normal capacity and slightly pressed. (b) the rings or hanks shall have been cured properly with common salt.	(a) The Casings shall : (i) be obtained from healthy animals slaughtered in licensed premises and subjected to ante-mortem and post mortem inspections according to the prescribed procedures. (ii) be prepared under hygienic conditions. (iii) be wholesome, and otherwise fit for human consumption. (iv) be free from parasitic infection and from scars of healed up wounds. (v) not have been subjected to any bacterial activation or fermentation. (b) Preservatives other than edible common salt shall not have been used.
Grade II . .	Do.	As per Grade PQ except that a slight deviation shall be allowed in respect of colour and/or strength and wall. The material should be fit for use in preparation of sausages.	
Grade III .	Do.	As per Grade II except that nodules will be permitted in addition.	
Grade X*	. Do.	As agreed to between the purchaser and the exporter.	

*Grade designation 'Grade X' will be applicable under the following conditions:—

That the consignment is meant for export against a firm order from foreign importers. The phrase "firm order" shall mean either that whole of the purchase money is to be paid in cash beforehand or is guaranteed in some other way.

SCHEDULE IV

(See rules 4 and 5)

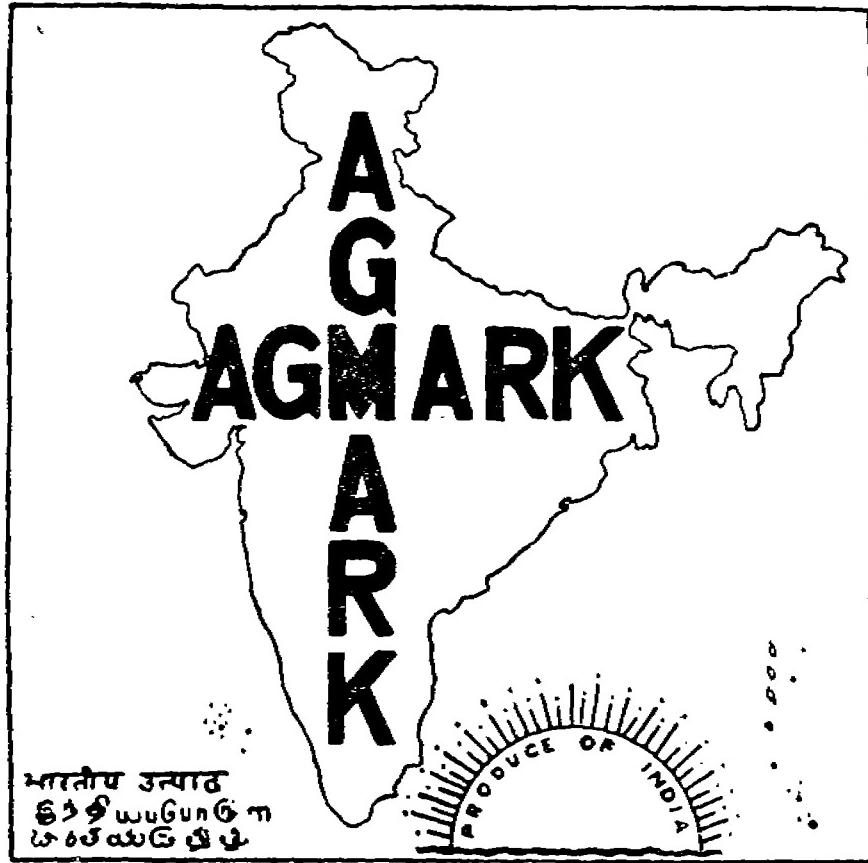
Grade designations and definition of quality of salted hog casings known commercially as "Hog Casings", "Pig Casings", or "Pork Castings" and produced in India.

Grade designation	Calibration	Special characteristics	General characteristics
			I 2 3 4
P Q . .	(1) 26 to 36 mm in steps of 2mm e.g. 26 to 28, 28-30 etc. or (2) as agreed to between the pur-chaser and the exporter.	(a) The Casings shall : (i) be of natural colour throughout without any discolouration. (ii) be free from defects like holes, blisters, la- ceration, nodules and cicatrices. (iii) be in tact and not torn or lacerated. (iv) be free from salt- burns, rust, domestics, black nodes, slime, mucus, dung and moulds or fungus infestations. (v) not burst when filled with air or water to its normal capacity and slightly pressed. (b) The rings or hanks shall have been cured pro- perly with common salt.	(a) The Casings shall: (i) be obtained from healthy animals slaughtered in licensed premises and subjected to ante-mortem and post mortem inspections accord-ing to the prescribed procedures. (ii) be prepared under hygienic conditions, wholesome, and otherwise fit for human consumption. (iii) be free from parasitic infection and from scars of healed up wounds. (iv) not be subjected to any bacterial activation or fermentation. (b) Preservatives other than edible common salt shall not have been used.

SCHEDULE V

Grade designation mark to be applied to Animal Casings
 (See rule 6)

The grade designation mark to be applied to packages of animal casings shall contain the following design :—
 Serial No. _____



TYPE _____
 GRADE _____
 CALIBRATION _____
 NUMBER OF HANKS _____
 DATE OF PACKING _____
 Serial No. _____

(Signature of Inspecting Officer)

S.O. 3402.—In pursuance of clauses (i) and (k) of rule 4 of the General Grading and Marking Rules, 1937, the Central Government hereby prescribes the following charges for affixing Agmark labels on the packages of animal casings, namely:—

1. Sheep casings	50nP. for 10 hanks, or fraction thereof.
2. Cattle casings	20nP. per hank.
3. Hog casings	50 nP. for 50 rings or fraction thereof.
4. Bladders, weasands fat ends and bungs	10 nP. per Kg.

[No. F. 17—10/62-AM.]

SANTOKH SINGH, Under Secy.

(Department of Agriculture)

(Indian Council of Agricultural Research)

New Delhi, the 21st September 1964

S.O. 3403.—In exercise of the powers conferred by sub-section 5 (VIII) of Section 4 of the Indian Lac Cess Act, 1930, as amended from time to time, the Central Government is pleased to nominate Dr A. Purushotham, Director, Biological Research, Forest Research Institute, Dehra Dun as a Scientist member on the Advisory Board of the Indian Lac Cess Committee vice Shri R. L. Badhwar died.

[No. 3-46/63-Com.IV.]

N. K. DATTA, Under Secy.

MINISTRY OF HEALTH

New Delhi, the 3rd September 1964

S.O. 3404.—In exercise of the powers conferred by sub-section (2) of section 1 of the Drugs and Cosmetic (Amendment) Act, 1964 (13 of 1964) the Central Government hereby appoints the 15th day of September, 1964 as the date on which the provisions other than those contained in sections 25 and 26 and the First Schedule referred to in section 31 of the said Act shall come into force.

[No. F 1—10/63-D.]

BASHESHAR NATH, Under Secy.

MINISTRY OF TRANSPORT

(Transport Wing)

MERCHANT SHIPPING

New Delhi, the 15th September 1964

S.O. 3405.—In pursuance of sub-section (2) of section 358 of the Merchant Shipping Act, 1958 (44 of 1958), the Central Government hereby makes the following further amendment in the notification of the Government of India in the late Department of Commerce No 70-M-I(30)/29, dated the 18th November, 1963 relating to the appointment of officers to whom notice of shipping casualties should be given, namely:—

In the Schedule annexed to the said notification, in the entries in the column headed 'Officers' against the Port of Calcutta, for the entry "(1) The Deputy Conservator of the Port of Calcutta, the Senior Assistant Conservator of the Port of Calcutta, the Harbour Master (River) Port of Calcutta and the Harbour Master (Port) Port of Calcutta", the following entry shall be substituted, namely:—

"(1) The Director of the Marine Department Port of Calcutta, the Deputy Director (Senior) of the Marine Department Port of Calcutta, the Harbour Master (River) Port of Calcutta, and the Harbour Master (Port), Port of Calcutta."

[No. 38-MA(21)/63 1]

HARBANS SINGH, Under Secy.

DEPARTMENT OF COMMUNICATIONS

(Posts & Telegraphs Board)

New Delhi, the 17th September 1964

S.O. 3406.—In pursuance of para (a) of section III of Rule 434 of Indian Telegraph Rules, 1951, as introduced by S.O. No. 627 dated 8th March, 1960, the Director General Posts and Telegraphs, hereby specifies the 1st October 1964 as the date on which the Measured Rate System will be introduced in Tiruchirapalli (Main and Fort) Telephone Exchanges.

[No. 31/29/63-PHB.]

New Delhi, the 19th September 1964

S.O. 3407.—In pursuance of Para (a) of Section III of Rule 434 of Indian Telegraph Rules, 1951, as introduced by S.O. No. 627, dated 8th March, 1960 the Director General, Posts and Telegraphs, hereby specifies the 1st October, 1964 as the date on which the Measured Rate System will be introduced in Kumbakonam Telephone Exchange.

[No. 31/20/64-PHB.]

S. RAMA IYER,
Assistant Director General (PHB).

MINISTRY OF EDUCATION

ARCHAEOLOGY

New Delhi, the 10th September 1964

S.O. 3408.—Whereas by notification of the Government of India in the Ministry of Education No. F. 4-19/64CI dated the 12th June, 1964 published in Part II, Section 3 sub-section (ii) of the Gazette of India dated the 20th June, 1964, the Central Government gave notice of its intention to declare the area near or adjoining the protected monument specified in the Schedule attached hereto to be prohibited area for purposes of mining operation or construction or both.

And, whereas, no objections have been received to the making of such declaration.

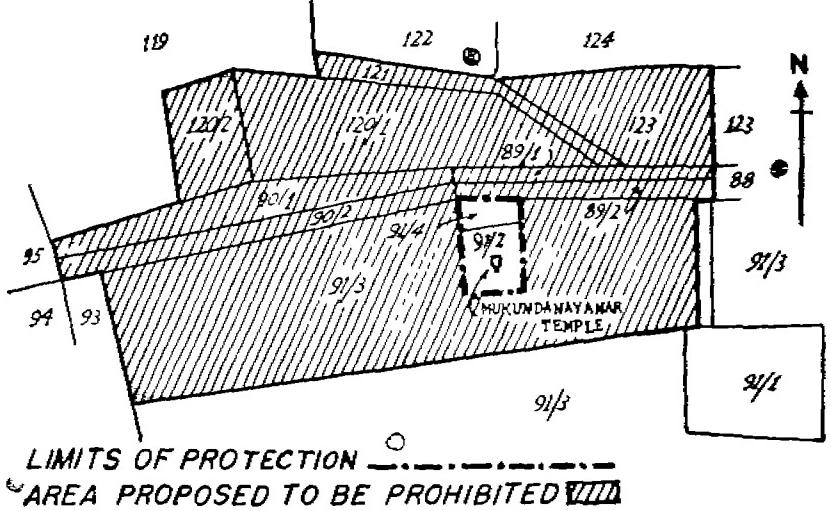
Now, therefore, in exercise of the powers conferred by Rule 32 of the Ancient Monuments and Archaeological Sites and Remains Rules, 1959, the Central Government hereby declares the said area to be a prohibited area.

SCHEDULE

Sl. No.	State	District	Tehsil	Locality	Name of Monument	Revenue plot number to be declared as prohibited	Area	Ownership	Details of modern structures if any in the area to be declared as prohibited	Remarks
1	2	3	4	5	6	7	8	9	10	11
1	Madras	Chingleput.	Chingleput.	Mahabali-puram.	Mukundanayanan temple.	Whole of survey plot Nos. 89/1, 89/2, 90/1, 90/2, 120/1, 120/2, 121, part of survey plot Nos. 91/3 and 123 as shown in the plan reproduced below.	12.35 acres.	Survey plot Nos. 89/1, 90/1, 121 and 120/2 are Government owned and remaining under private ownership.	Nil	..

SITE PLAN OF MUKUNDANAYANAR TEMPLE
AT MAHABALIPURAM

100 0 100 METRES 400 0 400 FEET



[No. F. 4-19/64CL]
L. W. DHUME, Dy. Secy.

New Delhi, the 18th September 1964

S.O. 3409.—In exercise of the powers conferred by sub-section (1) of section 4 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958), the Central Government hereby makes the following amendment in the Schedule to the notification of the Government of India in the Ministry of Education (Department of Education) Archaeology No. F 4-29/63. C.I. dated the 6th January, 1964 published as S.O. 216 in Part II, Section 3(II) at pages 223-228 of the Gazette of India dated the 18th January, 1964, namely. In column II of the Schedule to the said notification, the following words and figures shall be inserted, namely:—

"There is a modern Shrine in Survey Plot No. 3181 and a house each in Survey Plot No. 3182 and 3110".

Any objection made within two months after the issue of this notification by any person interested in the said archaeological site and remains will be considered by the Central Government.

[No. F.4-29/63. C.I.]

S. J. NARSIAN, Asst. Edcl. Adviser.

MINISTRY OF WORKS & HOUSING

New Delhi, the 26th September 1964

S.O. 3410.—The resignation of Her Highness Maharani Vijaya Raje Scindia of Gwalior, who was elected a member of the Rajghat Samadhi Committee under clause (d) of sub-section (1) of section 4 of the Rajghat Samadhi Act, 1951 (41 of 1951), from the said Committee is hereby accepted.

[No. 19/2/64-WI].

S. CHAUDHURI, Dy. Secy.

MINISTRY OF WORKS, HOUSING AND REHABILITATION

(Department of Rehabilitation)

(Office of the Chief Settlement Commissioner)

New Delhi, the 14th July, 1959

S.O. 3411.—Whereas the Central Government is of opinion that it is necessary to acquire the evacuee properties specified in the Schedule hereto annexed in the Union territory of Delhi for public purpose, being a purpose connected with the relief and rehabilitation of Displaced Persons, including payment of compensation to such persons.

Now, therefore, in exercise of the powers conferred by Section 12 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), it is notified that the Central Government has decided to acquire, and hereby acquires the evacuee properties specified in the Schedule hereto annexed.

Sr. No.	Particulars of property		Area	Name of the evicuee with rights in the property
	Khewat No.	Khasra No.	Big-Bis	
1	2	3	4	5

Village Satbari

1.	116/173	37/2	2-14	Majid and Hamid S/o Husain in equal share 1/3. Latif, Meeda Booro S/o Bhala in equal share 1/3. Sharif S/o Bondu 1/3, ownership rights evicuee.
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1	2	3	4	5
<i>Village Chandanhola</i>				
2.	30/30	51/4	0—6	Kulwa, Shamsher, Namru, Nasru S/o Bura evacute mortgager, Hussan Khan, Roshan S/o Majid 1/15 share, Feroz Khan and Sobha S/o Nathu in equal share 2/15 Najra S/o Nihar 4/15 share, Alloo, Manphool, Maria S/o Bachan in equal share 8/15 non-evacute mortgagee vesting the custodian.
<i>Village Sultanpaur Dabas</i>				
3.	5/112	83/15/3	0—8	Rakha S/o Karamat, share holder, evacute mortgager Amrit S/o Sundra mortgaggee non-evacute vesting the custodian.

[No. F. I(10)/L & R/62, dated the 18th September, 1964]

M. J. SRIVASTAVA,
Settlement Commissioner & Ex-Officio
Under Secy.

MINISTRY OF COMMUNITY DEVELOPMENT AND COOP.

(Department of Cooperation)

New Delhi, the 16th September 1964

S.O. 3412.—In exercise of the powers conferred by section 5-B of the Multi-Unit Cooperative Societies Act 1942 (6 of 1942) and in supersession of the Government of India in the Ministry of Community Development and Cooperation (Department of Cooperation), No. 3/17/62-CT, dated the 24th September, 1963, the Central Government hereby directs that all the powers or authority exercisable by the Central Registrar of Cooperative Societies under the said Act shall also be exercisable by Shri S. N. Varma, Development Commissioner, Delhi in respect of Multi-Unit Cooperative Societies which are or are deemed to be actually registered in the Union Territory of Delhi.

[No. 3/14/64-CT.]
A. C. BANDOPADHYAY, Dy. Secy.

MINISTRY OF PETROLEUM AND CHEMICALS

New Delhi, the 10th September 1964

S.O. 3413.—Whereas by a notification of the Government of India in the Ministry of Petroleum and Chemicals S.O. No. 1981 dated the 27th May 1964 under sub-section (1) of Section 3 of the Petroleum Pipelines (Acquisition of Right of User in

Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in the lands specified in the Schedule appended to that notification for the purpose of laying pipelines;

And whereas the competent authority has, under sub-section (i) of section 6 of the said Act, submitted report to the Government;

And, whereas, the Central Government has, after considering the said report, decided to acquire the right of user in the lands specified in the Schedule appended to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (i) of section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the Schedule appended to this notification is hereby acquired for laying the pipelines and in exercise of the powers conferred by sub-section (4) of that section, the Central Government directs that the right of user in the said lands shall instead of vesting in the Central Government, vest on the date of the publication of this declaration in the Oil and Natural Gas Commission free from all encumbrances.

SCHEDULE

State : GUJARAT District : BROACH Taluk : BROACH

Village	Survey No.	Block No.	Acre.	Guntha	Sq. Yds.
Simalia.	100/101	165	0	33	98
"	108	173	0	32	76
"	102/2 paiki.	166	0	4	45
"	102/4 102/3 "	168	0	6	67
"	102/3, 102/4 108/1+2, 103/1 A	170	0	34	8
	103/2				
"	107/1 Paiki 107/2 " 107/4 "	175	0	1	29
"	96	163	0	34	47

[No. 31/38/63-ONG.]

S.O. 3414.—Whereas by a notification of the Government of India in the Ministry of Petroleum and Chemicals S.O. No. 2723 dated the 29th July 1964 under sub section (1) of Section 3 of the Petroleum Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in the lands specified in the Schedule appended to that notification for the purpose of laying pipelines;

And whereas the competent authority has, under sub-section (i) of section 6 of the said Act, submitted report to the Government;

And, whereas, the Central Government has, after considering the said report, decided to acquire the right of user in the lands specified in the Schedule appended to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (i) of section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the Schedule appended to this notification is hereby acquired for laying the pipelines and in exercise of the powers conferred by sub-section (4) of that section, the Central Government directs that the right of user in the said lands, shall instead of vesting in the Central Government, vest on the date of the publication of this declaration in the Indian Oil Corporation Limited free from all encumbrances.

SCHEDULE

State. UTTAR PRADESH Tehsil : CHAIL Distt. ALLAHABAD

Village.	Survey No.	Extent B.B.
1. SAIYAD SARAWAN.	3304/3M 3308M 3312M 3312M 3321M	0-0-10 0-0-15 0-1-0 0-0-10 0-1-0
2. PANSOOR.	310M	0-1-5

[No. 31/50/63-ONG(Chail).]

New Delhi, the 15th September 1964

S.O. 3415.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum between Barauni Refinery in Bihar State and Haldia Port in Calcutta in West Bengal State, pipelines should be laid by the Indian Oil Corporation Limited and that for the purpose of laying such pipelines, it is necessary to acquire the right of user in the land described in the Schedule annexed hereto,

2. Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.

3. Any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipelines under the land to the competent authority, 9, Syed Amir Ali Avenue, Calcutta-17 in the office of the Indian Oil Corporation Limited. Every person making such an objection shall also state specifically whether he wishes to be heard in person or by a legal practitioner.

SCHEDULE

State: WEST BENGAL Distt. : BURDWAN Tehsil/Thana : JAMURIA

Village	Survey Nos. (Plot Nos.)	Extent (Area)
Ninga, J.L. 28	1188	.10
Khoskula, J.L. 27	276 470 534 579	.01 .02 .26 .35

Village	Survey Nos. (Plot Nos.)	Extent (Area)
Bijpur, J.L. 35	1113 1435 1643	.02 .01 .04
Banali, J.L. 31	820 2446 2447 2448 2449	.03 .20 .18 .15 .03
Kunustria, J.L. 54	747	.06

[No. 31/33/63-ONG-1.]

S.O. 3416.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum between Barauni Refinery in Bihar State and Haldia Port in Calcutta in West Bengal State, pipelines should be laid by the Indian Oil Corporation Limited and that for the purpose of laying such pipelines, it is necessary to acquire the right of user in the land described in the Schedule annexed hereto,

2. Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.

3. Any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipelines under the land to the competent authority, 9, Syed Amir Ali Avenue, Calcutta-17 in the office of the Indian Oil Corporation Limited. Every person making such an objection shall also state specifically whether he wishes to be heard in person or by a legal practitioner.

SCHEDULE

State : WEST BENGAL

Distt. : BURDWAN Tahsil/Thana : ASANSOL

Village	Survey Nos. (Plot Nos.)	Extent (Area)
Ramjibanpur, J.L. 47	69	.03
Sudi, J.L. 45	1227	.05
Sitala, J.L. 8	887	.02

[No. 31/33/63-ONG-2.]

S.O. 3417.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum between Barauni Refinery in Bihar State and Haldia Port in Calcutta in West Bengal State, pipelines should be laid by the Indian Oil Corporation Limited and that for the purpose of laying such pipelines, it is necessary to acquire the right of user in the land described in the Schedule annexed hereto,

2. Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.

3. Any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipelines under the land to the competent authority, 9, Syed Amir Ali Avenue, Calcutta-17 in the office of the Indian Oil Corporation Limited. Every person making such an objection shall also state specifically whether he wishes to be heard in person or by a legal practitioner.

SCHEDULE

State : WEST BENGAL

Distt. : BURDWAN Tehsil/Thana : BURDWAN

Village	Survey Nos. (Plot Nos.)	Extent (Area)
Amra, J.L. 156	1741	.20
Rayan, J.L. 68	272	.02
Putunda, 154	1850	.32
Talit, J.L. 10	4534	.06
Gangpur, J.L. 88	1294	.06

[No. 31/33/63-ONG—3.]

S.O. 3418.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum between Barauni Refinery in Bihar State and Haldia Port in Calcutta in West Bengal State, pipelines should be laid by the Indian Oil Corporation Limited and that for the purpose of laying such pipelines, it is necessary to acquire the right of user in the land described in the Schedule annexed hereto,

2. Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.

3. Any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipelines under the land to the competent authority, 9, Syed Amir Ali Avenue, Calcutta-17 in the office of the Indian Oil Corporation Limited. Every person making such an objection shall also state specifically whether he wishes to be heard in person or by a legal practitioner.

SCHEDULE

State : WEST BENGAL

Distt. : BURDWAN Tehsil/Thana : MEMARI

Village	Survey Nos. (Plot Nos.)	Extent (Area)
Bhaita, J.L. 40	1824	.26

[No. 31/33/63-ONG—4.]

S.O. 3419.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum between Barauni Refinery in Bihar State and Haldia Port in Calcutta in West Bengal State, pipelines should be laid by the Indian Oil Corporation Limited and that for the purpose of laying such pipelines, it is necessary to acquire the right of user in the land described in the Schedule annexed hereto,

2. Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.

3. Any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipelines under the land to the competent authority, 9, Syed Amir Ali Avenue, Calcutta-17 in the office of the Indian Oil Corporation Limited. Every person making such an objection shall also state specifically whether he wishes to be heard in person or by a legal practitioner.

SCHEDULE

State : WEST BENGAL

District : BURDWAN

Tehsil/Thana: KULTI

Village	Survey Nos. (Plot Nos.)	Extent (Area)
Chalbalpur, J.L. 19 .	1647	.04
Kalikapur, J.L. 47 .	147 148	.52 .12

[No. 31/33/63-ONG—5.]

S.O. 3420.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum between Barauni Refinery in Bihar State and Haldia Port in Calcutta in West Bengal State, pipelines should be laid by the Indian Oil Corporation Limited and that for the purpose of laying such pipelines, it is necessary to acquire the right of user in the land described in the Schedule annexed hereto,

2. Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.

3. Any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipelines under the land to the competent authority, 9, Syed Amir Ali Avenue, Calcutta-17 in the office of the Indian Oil Corporation Limited. Every person making such an objection shall also state specifically whether he wishes to be heard in person or by a legal practitioner.

SCHEDULE

State : WEST BENGAL

District : BURDWAN

Tehsil/Thana : KANKSA

Village	Survey Nos. (Plot Nos.)	Extent (Area)
Panagarh, J.L. 85 .	628	.04

[No. 31/33/63-ONG—6.]

S.O. 3421.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum between Barauni Refinery in Bihar State and Haldia Port in Calcutta in West Bengal State, pipelines should be laid by the Indian Oil Corporation Limited and that for the purpose of laying such pipelines, it is necessary to acquire the right of user in the land described in the Schedule annexed hereto,

2. Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.

3. Any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipelines under the land to the competent authority, 9, Syed Amir Ali Avenue, Calcutta-17 in the office of the Indian Oil Corporation Limited. Every person making such an objection shall also state specifically whether he wishes to be heard in person or by a legal practitioner.

SCHEDULE

State : WEST BENGAL

Distt : BURDWAN Tehsil/Thana : SALANPUR

Village	Survey Nos. (Plot Nos.)	Extent (Area)
Rangameta, J.L. 43 .	287 288	.09 .30
Dhaminberya, J.L. 38 .	326	.04
Basudebpur, J.L. 36 .	238	.04
Salanpur, J.L. 27 .	1441 1444 1479	.14 .12 .02

[No. 31/33/63-ONG-7.]

New Delhi, the 19th September 1964

S.O. 3422.—Whereas by a notification of the Government of India in the Ministry of Petroleum and Chemicals S.O. No. 355, dated 17th January, 1964 read with S.O. No. 1819, dated the 18th May, 1964 under sub-section (1) of Section 3 of the Petroleum Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in the lands specified in the Schedule appended to that notification for the purpose of laying pipelines,

And whereas the competent authority has, under sub-section (i) of section 6 of the said Act, submitted report to the Government;

And, whereas, the Central Government has, after considering the said report, decided to acquire the right of user in the lands specified in the Schedule appended to this notification,

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the Schedule appended to this notification is hereby acquired for laying the pipelines and in exercise of the powers conferred by sub-section (4) of that section, the Central Government directs that the right of user in the said lands, shall instead of vesting in the Central Government, vest on the date of the publication of this declaration in the Indian Oil Corporation Limited free from all encumbrances.

SCHEDULE

State: UTTAR PRADESH

Distt: KANPUR

Tahsil: KANPUR

Village	Survey No.	Extent B.B.R.
1. NAOGAVAN.	1276/3 1544	1-2-0 0-6-0
2. POORAN PUR.	768	0-6-0
3. TILSAHRI KHURD.	761 1020	0-8-8 0-3-16
4. UCHTI.	156	0-6-0
5. SATBARI.	142	1-3-0

[No. 31/50/63-ONG-(KAN).]

S.O. 3423.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum between Barauni Refinery in Bihar State and Kanpur in Uttar Pradesh State, a pipeline should be laid by the Indian Oil Corporation Limited and that for the purpose of laying such a pipeline, it is necessary to acquire the right of user in the land described in the Schedule annexed hereto;

2. Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.

3. Any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the competent authority at 7/166, Swarup Nagar, Kanpur. Every person making such an objection shall also state specifically whether he wishes to be heard in person or by a legal practitioner.

SCHEDULE

State: UTTAR PRADESH	Tahsil: FATEHUPUR	District: FATEHUPUR
Village	Survey No.	Extent
1. JHAU PUR	I	B.B.B. 0-3-0
2. SHADIPUR KHURD	267 268 270 271	0-5-0 0-2-10 0-0-15 0-2-10

[No. 31/50/63-ONG]

CORRIGENDA

New Delhi, the 15th September 1964

S.O. 3424.—In the schedule to the notification of the Government of India in the Ministry of Petroleum and Chemicals S.O. No. 2788 dated 5th August, 1964 published in the Gazette of India Part II, Section 3 Sub-section (ii) dated the 15th August, 1964;

Survey Numbers 101 to 1154 following Survey Number 1790 of village Kulhariya T. No. 341 are of village Boksa T. No. 404.

[No. 31/47/63-ONG-7. Bux.]

S.O. 3425.—In the schedule to the notification of the Government of India in the Ministry of Petroleum and Chemicals S.O. No. 2713 dated 23rd July, 1964 published in the Gazette of India Part II, Section 3 Sub-section (ii) dated the 8th August, 1964;

In Village Osan T. No. 205

(1) read survey Plot No. 1259 for 2159 against extent "0.05" acres.

(2) read survey Plot No. 1261 for 2161 against extent of "0.01" acres.

[No. 31/47/63-ONG-1 Bux.]

S.O. 3426.—In the schedule to the notification of the Government of India in the Ministry of Petroleum and Chemicals S.O. No. 2714 dated the 23rd July, 1964 published in the Gazette of India Part II, Section 3 Sub-section (ii) dated the 8th August, 1964;

(1) Read T. No. 43 instead of T. No. 4 against village Dealpur Daulat and read Plot No. 913 instead of 613 against extent "0.07" acres of village Dealpur Daulat.

- (2) Against Plot No. 402 of village Dilawarpur T No. 46 *read extent "0 065"* acres for "0 65" acres
(3) Against Plot No. 126 of village Banwarpur T No. 126 *read extent "0 005"* acres for "0 305" acres

[No 31/47/63-ONG-IPAT]

New Delhi, the 19th September 1964

S.O. 3427—In the Schedule to the notification of the Government of India in the Ministry of Petroleum and Chemicals S.O. 2719 dated the 25th July, 1964 published in the Gazette of India, Part II Section 3, Sub-section (ii), dated the 8th August, 1964—

For $\frac{\text{B-B-B}}{0 2 0}$ and $\frac{\text{B B-B}}{0-2 0}$ *read* $\frac{\text{B-B B}}{0-2-10}$ and $\frac{\text{B B B}}{0 2-10}$ against Survey

Nos. 41 and 78 respectively of village Magalkhedi

[No 31/50/63-ONG-ZAM]

S O 3428—In the Schedule to the notification of the Government of India in the Ministry of Petroleum and Chemicals S.O. No. 2788, dated the 5th August, 1964 published in the Gazette of India, Part II Section 3 Sub-section (ii), dated the 15th August, 1964—

- (1) *Read extent "0 80" acres instead of "0 30" against Survey Plot No. 66 of Village Hukaha T No. 281*
(2) *Read Survey No. 988 for 938 against extent "0 39" acres in village Sondhila T No. 338*

[No 31/47/63-ONG 8 Bux]

S.O. 3429—In the Schedule to the notification of the Government of India in the Ministry of Petroleum and Chemicals S.O. No. 2332 dated the 29th June, 1964 published in the Gazette of India Part II Section 3, Sub section (ii) dated the 4th July 1964 against Plot No. 1552 of Village Ammanabirpur T No. 146 *read extent "0 004" acres instead of "0 00" acres*

This Ministry's S.O. No. 2731, dated the 3rd August 1964 published in the Gazette of India, Part II Section 3, Sub-section (ii), dated 8th August 1964 is hereby cancelled

[No 31/47/63-ONG IAR]

P P GUPTA, Under Secy

MINISTRY OF LABOUR & EMPLOYMENT

New Delhi, the 19th September 1964

S.O. 3430—In exercise of the powers conferred by sub-section 1 of section 5 of the Mines Act, 1952 (35 of 1952) the Central Government hereby appoints Shri Prem Vasudeva as Inspector of Mines subordinate to the Chief Inspector of Mines and makes the following further amendment in the notification of the Government of India in the Ministry of Labour and Employment S.O. 531 dated the 2nd March 1961, namely—

In the said notification the following entry shall be added at the end namely—

"87) Shri Prem Vasudeva"

[No 8/63/62-MI]

R C SAKSENA, Under Secy

New Delhi, the 19th September 1964

S O. 3431—The following draft of a Scheme further to amend the Madras Dock Workers (Regulation of Employment) Scheme 1956 which the Central Government proposes to make in exercise of the powers conferred by sub-section

(1) of section 4 of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), is published as required by the said sub-section for the information of all persons likely to be affected thereby; and notice is hereby given that the said draft will be taken into consideration on or after the 31st October, 1964.

Any objections or suggestions which may be received from any person with respect to the said draft before the date so specified will be taken into consideration by the Central Government.

Draft Scheme

1. This Scheme may be called the Madras Dock Workers (Regulation of Employment) Amendment Scheme, 1964.

2. In the Madras Dock Workers (Regulation of Employment) Scheme, 1956, hereinafter referred to as the said Scheme, in clause 16, in sub-clause (2), after item (e), the following item shall be inserted, namely:—

"(f) signaller."

3. In Schedule I of the said Scheme, in entry (2), after item (e), the following item shall be inserted, namely:—

"(f) Signaller."

[No. 525/4/64-Fac.]

New Delhi, the 21st September 1964

S.O. 3432.—In exercise of the powers conferred by sub-sections (1) and (3) of section 5A of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), the Central Government hereby establishes a Dock Labour Board for the port of Cochin to be known by the name of the Cochin Dock Labour Board and appoints the following persons as the members thereof, namely:—

Members representing the Central Government:

- (1) Shri P. R. Subramanian, Administrative Officer, Cochin Harbour, Cochin.
- (2) The Conciliation Officer (Central), Cochin.
- (3) The Deputy Labour Commissioner, Trivandrum.
- (4) The Traffic Manager, Cochin Port, Cochin.

Members representing the dock workers:

- | | |
|---------------------------|--|
| (1) Shri M. K. Raghavan | Representatives of the Cochin Tharamugha Thozhilali Union. |
| (2) Shri A. A. Kochunny | |
| (3) Shri G. S. Dara Singh | Representatives of the Cochin Port Thozhilali Union. |
| (4) Shri K. M. Fareed | |

Members representing the employers of dock workers and shipping companies:

- | | |
|----------------------------|--|
| (1) Shri W. H. D'Cruz | Representatives of the United Stevedores' Association of Cochin (P) Ltd. |
| (2) Shri K. G. Bhagat | |
| (3) Shri Manubhai J. Asher | Representative of the Indian National Steamship Owners' Association |
| (4) Shri D. B. Khona | Representative of the Overseas Shipping Interests. |

2. The Central Government hereby nominates Shri P. R. Subramanian, Administrative Officer, Cochin Harbour, Cochin as the Chairman of the said Board.

[No. 527/8/62-Fac.]

K. D. HAJELA, Under Secy.

ORDERS

New Delhi, the 15th September 1964

S.O. 3433.—Whereas the Central Government is of opinion that an industrial dispute is apprehended between the employers in relation to the Visakhapatnam Port Trust and their workmen in respect of the matter specified in the Schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by section 7A and clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby constitutes an Industrial Tribunal of which Dr. Mir Siadat Ali Khan shall be the Presiding Officer, with headquarters at Hyderabad and refers the said dispute for adjudication to the said Tribunal.

SCHEDULE

What should be the decasualisation Scheme for the Ore handling workers (including Hookmen, Tally Clerks and Supervisors) in Visakhapatnam Port with due regard to the Resolution of the Government of India in the Ministry of Transport and Communications (Department of Transport) No. 23-PLA(87)/58, dated the 20th July, 1958 published in the Gazette of India Extraordinary, Part I, Section 1, dated the 21st July, 1958, with special reference to the following:—

- (a) Rates of wages.
- (b) Gear Charges.
- (c) Daily guaranteed minimum wage.
- (d) Attendance allowance.
- (e) Introduction of 8 hours shift.
- (f) Special allowance for night shift.
- (g) Paid National holidays.
- (h) Paid weekly rest day.
- (i) Provision of living accommodation.

[No. 28(90)/64-LRIV.]

New Delhi, the 16th September, 1964

S.O. 3434.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Syndicate Bank Limited (previously known as the Canara Industrial and Banking Syndicate Limited) and their workmen in respect of the matter specified in the Schedule hereto annexed;

And, whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by section 7A and clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby constitutes an Industrial Tribunal of which Dr. Mir Siadat Ali Khan shall be the Presiding Officer, with headquarters at Hyderabad and refers the said dispute for adjudication to the said Tribunal.

SCHEDULE

Whether having regard to the directions contained in the Award dated the 21st July, 1962 of the National Industrial Tribunal (Bank Disputes) Bombay published with the notification of the Government of India, in the Ministry of Labour and Employment No. S.O. 2803 dated the 7th August, 1962, the bonus paid by the management of the Syndicate Bank Limited (previously known as the Canara Industrial and Banking Syndicate Limited) to their workmen for the year 1962 was inadequate. If so, to what quantum of bonus are the workmen entitled?

[No. 51(62)/64-LRIV.]

New Delhi, the 19th September 1964

S.O. 3435.—Whereas by an Order of the Government of India in the Ministry of Labour and Employment No. 28/90/64-LRIV, dated the 15th September, 1964, an industrial dispute between the employers in relation to the Visakhapatnam Port Trust, Visakhapatnam and their workmen has been referred to the Industrial Tribunal, Hyderabad, for adjudication;

Now, therefore, in exercise of the powers conferred by sub-section (3) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby prohibits the continuance of any strike in existence in connection with the said dispute.

[No. 28(90)/64-LRIV.]

O. P. TALWAR, Under Secy.

ORDERS

New Delhi, the 15th September 1964

S.O. 3436.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Jambad Colliery of M/s. North Adjai Jambad Coal Company (P) Ltd., P.O. Kajoragram, District Burdwan and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Calcutta, constituted under section 7A of the said Act.

SCHEDULE

Whether the termination of services of Shri Bholanath Palit by the management of Jambad Colliery of M/s. North Adjai Jambad Coal Company Private Limited through its letter dated the 23rd May, 1964 was justified; if not to what relief is the workmen entitled?

[No. C/54/64-LR.II.]

New Delhi, the 17th September 1964

S.O. 3437.—Whereas, the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Ardhogram Khas Colliery, P.O. Ardhogram, Bankura and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Calcutta, constituted under section 7A of the said Act.

SCHEDULE

- (1) Whether the management of Ardhogram Khas Colliery had employed S/Srimati 1. Bharati, 2. Aлиka, 3. Ruby wife of Sankar Bauri and 4. Pramila wife of Gasoa Bauri or any of them?
- (2) If so whether the action of the management in stopping them from work with effect from 22nd April 1964 is legal and justified?
- (3) If not, to what relief are the said workers entitled?

[No. 6/51/64-LR.II.]

S.O. 3438.—Whereas, the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Singareni Collieries Company Limited Kothagudium and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by section 7A and clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby constitutes an Industrial Tribunal with Dr. Mir Siadat Ali Khan as the Presiding Officer with headquarters at Samajiguda, Hyderabad, and refers the dispute for adjudication to the said Industrial Tribunal.

SCHEDULE

1. Whether the pay of the fillers of the Singareni Collieries Company Limited, Kothagudium mentioned below, who were promoted as coal cutters on 8th July, 1963, has been properly fixed:—

M/s Bada Baliah, Chandragiri Komariah, Rajahmad, Boya Rajam, Kanukuntla Venkatty, Mahabeer Singh, Gudla Sailoo, Adapal Gopiah,

Paltham Malliah, Gadam Venkaty, Mekala Kanniah, Chengagarapu Veeramaloo, Illattori, Saheb, Dunra Arjuna, Kal-koti Malliah, Ramprasad, Puli Lingloo, Appla Durgiah, Bangari Mondi, Kommula Elliah, Mandapuri Ramuloo, Mekala Devaiah, Madagiri Ramulu, Md. Ankoos, Yasa Malliah, Bangari Rajam, Soopari Macham, Gajula Malliah, Samanthula Odeeloo, Kukkamudi Elliah, Kalvala Laxmiah, N. Venkataratnam, Abdul Subhan, Fakir Ahmad, Sal-lori Malliah, Mittapalli, Rajam, Bandari Ramuloo, Bokka Satyam, Tammanapudi Saiboo, Ramancha Malliah, Radrapu Rajam, Kunch Pallaiah and Mamidi Momariah.

2. If not, to what relief are the workmen entitled?

[No. 7/11/64-LR.II.]

S.O. 3439.—Whereas, the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Bengal Jharia Colliery (Post Office Jharia, District Dhanbad), and their workmen in respect of the matters specified in the schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

(1) Whether the unemployment of Shri Ramlagan Mallah, Pump Khalasi of the Bengal Jharia Colliery, from the 19th June, 1964 to the 28th June, 1964 was brought about by his own fault.

(2) If not, to what relief is the workman entitled?

[No. 2/94/64-LR.II.]

New Delhi, the 18th September 1964

S.O. 3440.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Bengal Jharia Colliery P.O. Kajoragram, District Burdwan of M/s. C. Bhawsingha, 29A, Sir Hariram Goenka Street, Calcutta-7 and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government refers the said dispute for adjudication to the Industrial Tribunal Calcutta, constituted under section 7A of the said Act.

SCHEDULE

Whether the action of the management in closing down the Upper Kajora Colliery (owned by Messrs. C. Bhawsingha) and refusing employment to all the workmen from the 10th August, 1964, is justified. If not, to what relief are the workmen entitled

[No. 8/126/64-LRII.]

S.O. 3441.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Bankola Colliery P.O. Ukhra, Distt. Burdwan and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Calcutta, constituted under section 7A of the said Act.

SCHEDULE

Whether the action of the management of Bankola Colliery in transferring Shri Lalbahadur Singh Haulage/Pump Khalasi with effect from the 20th April, 1964 was justified. If not, to what relief is the workman entitled?

[No. 8/59/64-LRII.]

New Delhi, the 19th September 1964

S.O. 3442.—Whereas an industrial dispute exists between Messrs K and C Daga, Gazal Shah, Champa Lal Purohit, Wazir Shah, Faiz Mohammad and Bachha Misra, contractors in regard to Jamsar and Dhirera mines of Messrs Bikaner Gypsum Limited, Bikaner and their workmen represented by the Gypsum Mine Workers Union, Jamsar (hereinafter to as the Union);

And, whereas, the said Company and the Union have by a written agreement, in pursuance of the provisions of sub-section (1) of section 10A of the Industrial Disputes Act, 1947 (14 of 1947), referred the said dispute to arbitration of the person mentioned therein, and a copy of the said arbitration agreement has been forwarded to the Central Government;

Now, therefore, in pursuance of the provisions of sub-section (3) of section 10A of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the said arbitration agreement, which was received by the Central Government on the 14th September, 1964.

FORM 'C'

(See Rule 6)

Bikaner, dated the 17th May 1964.

(Under section 10A of the Industrial Disputes Act)

BETWEEN

Name of parties:

Representing Employers:

1. Shri K. & C Daga, Dhirera.
2. Fazal Shah, Contractor, Jamsar.
3. Shri Champa Lal Purohit, Contractor, Jamsar.
4. Shri Wazir Shah, Contractor, Jamsar.
5. Shri Faiz Mohammad Contractor, Jamsar.
6. Shri Bachcha Misra Contractor, Jamsar.

Representing workmen:

Shri R. C. Shukla, General Secretary, Gypsum Mine Workers Union, Jamsar (Bikaner).

It is hereby agreed between the parties to refer the following industrial dispute to the arbitration of the Conciliation Officer (Central), Ajmer.

(I) Specific matters in dispute:

Whether any bonus should be paid to the workers for the year 1962-63 1963-64 and if so at what rate and on what basis.

(II) Details of the parties to the dispute including the name and address of the establishment or undertaking involved.

M/s. K & C Daga, Fazal Shah, Champa Lal Purohit, Wazir Shah, Faiz Mohammad and Bachcha Misra, (Employers) and Gypsum Mine Workers Union (Workmen) in regard to Jamsar and Dhirera mines of M/s Bikaner Gypsum Ltd., Bikaner.

(III) Name of the Union, if any, representing the workmen in question.

Gypsum Mine Workers Union, Jamsar (Bikaner).

(iv) Total number of workmen employed in the undertaking effected.	500
(v) Estimated number of workmen effected or likely to be effected by the dispute.	500
Representing Employers	Sd. Fazal Shah Sd. Champa Lal Sd. Faiz Mohammad Sd. Wazir Shah
Representing Workers	Sd. Bachcha Misra Sd. Chand Ratan Sd. R. C. Shukla.

1. Sd. G. Ramchandran Pillai
2. Sd.

Witnesses:

Consent of the arbitrator:

I, hereby, consent to be arbitrator in the matter of dispute above.

Sd.

Conciliation Officer (C), Ajmer, Camp. Bikaner.

[No. 24/23/64-LR. II.]

B. R. SETH, Dy. Secy.

DEPARTMENT OF SOCIAL SECURITY

New Delhi, the 16th September 1964

S.O. 3443.—In exercise of the powers conferred by sub-section (1) of section 13 of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government hereby appoints Shri Prithwis Chandra Nag to be an Inspector for the whole of (i) the State of West Bengal, (ii) the Union territory of Andaman and Nicobar Islands and (iii) the Union territory of Tripura, for the purposes of the said Act or of any scheme framed thereunder, in relation to any establishment belonging to, or under the control of the Central Government, or in relation to any establishment connected with a railway company, a major port, a mine or an oil-field or controlled industry.

[No. 20(71) 64-PF-I.]

New Delhi, the 18th September 1964

S.O. 3444.—In exercise of the powers conferred by section 73F of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government, having regard to the location of the factories mentioned in the schedule below in sparse areas in the State of Punjab hereby exempts them from the payment of employer's special contribution leviable under Chapter VA of the said Act until the enforcement of the provisions of Chapter V of that Act in those areas.

SCHEDULE

Sl. No.	Name of District	Name of the area	Name of the factory
1	2	3	4
1	Ambala	Village Jorian, P.O. Yamuna Nagar.	M/s. Chanderpur Works.
2	Ferozepur	Moga.	Punjab Roadways Workshop.
3	Amritsar	Taran Taran.	Punjab Roadways Workshop.
4	Rohtak	Village Kundli, P.O. Narcla. Village Sultanpur P.O. Sonepat.	Hastinapur Metal Private Ltd. Hindustan Rolling and Wires (P) Ltd.
5	Karnal	Chaura Bazar, Karnal.	Jai Bharat Auto Industries.
6	Kapurthala	Sudhir Nagar, Village Mehtan P.O. Phagwara.	Sudhir Iron and Steel Industries.

[F. No. 6(63)/64-HI.]

S.O. 3445.—In exercise of the powers conferred by section 73F of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government, having regard to the location of the factories mentioned in the schedule below in sparse areas in the State of Rajasthan, hereby exempts them from the payment of the employers' special contribution leviable under Chapter VA of the said Act until the enforcement of the provisions of Chapter V of that Act in those areas.

SCHEDULE

Sl. No.	Name of District	Name of the area	Name of the factory
1	Tonk	Tonk.	P.W.D. (B and R) Workshop, Tonk.
2	Alwar	Alwar.	P.W.D. (B and R) Workshop, Alwar.

[F. No. 6(70)/63-HI.]

S.O. 3446.—Whereas the Central Government is satisfied that the factories mentioned in the schedule to this notification are situated in such areas in the State of Rajasthan where the provisions of Chapter V of the Employees' State Insurance Act, 1948 have not been enforced, and whereas the factories mentioned in the schedule below are non-commercial and non-competitive in nature;

Now, therefore, in exercise of the powers conferred by Section 73F of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby exempts the factories mentioned in the schedule below from the payment of employers' special contribution payable under Chapter VA of the Act, until the enforcement of the provisions of Chapter V of the Act in the areas in which the said factories are situated.

SCHEDULE

Sl. No.	Name of the District	Name of the area	Name of the factories
1	Kotah	Kotah.	1. P.W.D. (B and R) Workshop. 2. P.W.D. (B and R) Workshop.
2	Ajmer	Ajmer.	P.W.D. (B and R) Workshop.

[F. No. 6(70)/63-HI.]

S.O. 3447.—In exercise of the powers conferred by section 73F of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government, having regard to the location of the factories mentioned in the Schedule below in sparse areas in the State of Maharashtra hereby exempts them from the payment of the employers' special contribution leviable under Chapter VA of the said Act until the enforcement of the provisions of Chapter V of that Act in those areas.

SCHEDULE

Sl. No.	Name of District	Name of the area	Name of the factory
1.	Dhulia . . .	Mukti Tank . . . Shahada . . .	M/s. P.K. Katira's Stone Crusher. State Transport Shahada Depot, Workshop.
2.	Kolhapur . . .	Murgul . . . Shiroli . . .	M/s. Shri Dhudhganga Vedganga Sahakari Sakhari Karkhana Ltd. M/s. A.G. Mujawar and Co. (Stone crushing).
3.	Nasik . . .	Pimpalgaon . . .	M/s. Pimpalgaon Baswant Sahakari Bagaidhar Kharedi Vikri Sangh Ltd.
4.	North Satara . . .	Karad . . . Koynanagar . . .	1. M/s. Bharat Iron and Metal Works. 2. M/s. The Karad Taluka Sahakari Oil Mill Ltd. Mechanical sub-Division Maharashtra State Govt.
5.	Poona . . .	Bhatghar . . .	M/s. Bombay Net Mfg. Co. Pvt. Ltd.
6.	Ratnagiri . . .	Devagad . . .	M/s. Shivlal Othavji Vegad, Contractor (Stone Crusher).
7	Jalgaon . . .	Pimplala . . .	M/s. Asawa Silk Mills.

[No. F. 6(62)/64-HI.]

S.O. 3448.—In exercise of the powers conferred by section 73F of the Employees' State Insurance Act 1948 (34 of 1948), the Central Government, having regard to the location of the State Transport Workshops at Meenakshipuram and Ranithottam of Kanya Kumari Branch of Madras State Transport Department in an implemented area, hereby exempts them from the payment of the employers' special contribution leviable under Chapter VA of the said Act for the period upto and including the 28th July 1965.

[No. F. 6(49)/64-HI.]

S.O. 3449.—In exercise of the powers conferred by the Explanation to paragraph 30, and by paragraph 39, of the Employees' Provident Funds Scheme, 1952 and in supersession of the Notifications of the Government of India, in the late Ministry of Labour No. S.R.O. 1859, dated the 31st October, 1952, and in the Ministry of Labour and Employment No. S.O. 226, dated the 16th January, 1963, the Central Government, after consulting the Central Board and having regard to the resources of the Employees' Provident Fund available for meeting its normal administrative expenses, hereby fixes the administrative charges for the purpose of paragraph 30 and sub-paragraph (1) of paragraph 38 of the said Scheme, with effect from the 1st October, 1964, at 0·37 per cent (zero point three seven per cent) of the pay as referred to in the said paragraphs.

2. For the removal of doubts it is hereby notified that nothing contained in this Notification shall affect the administrative charges payable in respect of the period upto and inclusive of the 30th September, 1964, in respect of which the Notifications referred to in paragraph 1 herein shall continue to apply as if the same had not been superseded.

[No. 3/7/64/PF-II.]

S.O. 3450.—In pursuance of clause (a) of sub-section (3) of section 17 of the Employees' Provident Funds Act, 1952 (19 of 1952), and in supersession of the Notifications of the Government of India in the Ministry of Labour and Employment Nos.—

- (I) S.O. 1460 dated the 16th June 1961,
- (II) S.O. 1363 dated the 6th May 1963,
- (III) S.O. 1521 dated the 24th May 1963,

and of all other orders issued on the subject, the Central Government hereby directs that the employers in relation to an establishment or any person or class of persons exempted under section 17 of the said Act, shall be required to pay to the Employees' Provident Fund with effect from the 1st October, 1964, inspection charges at the rate of zero point zero nine per cent (0.09 per cent) of the pay (basic wages, dearness allowance, retaining allowance, if any, and cash value of food concessions admissible thereon) for the time being payable to the employees of the establishment or receivable by the persons or class of persons, as the case may be, in respect of which contributions would have been payable but for such exemption, within fifteen days of the close of every month.

2. For the removal of doubts it is hereby notified that nothing contained in paragraph 1 shall apply to the inspection charges already accrued in accordance with the notifications and orders referred to in the said paragraph and for the said purpose the notifications and orders shall continue to apply as if they had not been superseded.

[No. 3/7/64/PF-II.]

New Delhi, the 21st September 1964

S.O. 3451.—In exercise of the powers conferred by sub-section (1) of section 10 of the Coal Mines Provident Fund and Bonus Schemes Act, 1948 (46 of 1948) and in supersession of the notification of the Government of India, in the Ministry of Labour and Employment No. S.O. 2490, dated the 9th July, 1964, the Central Government hereby appoints the following officers to be Inspectors for the purposes of the Coal Mines Provident Fund Scheme, Andhra Pradesh Coal Mines Provident Fund Scheme, Rajasthan Coal Mines Provident Fund Scheme, Coal Mines Bonus Scheme, Andhra Pradesh Coal Mines Bonus Scheme, Rajasthan Coal Mines Bonus Scheme and Assam Coal Mines Bonus Scheme, and directs that they shall, in relation to coal mines, exercise the powers and perform the functions of Inspectors under the said Act in the States of West Bengal, Bihar, Madhya Pradesh, Orissa, Maharashtra, Andhra Pradesh, Rajasthan, Assam and Nagaland, namely:—

(1) Shri P. Chandra, Coal Mines Provident Fund Commissioner.

- (2) Shri S. D. Prasad,
- (3) Shri Raviansh Kumar,
- (4) Shri D. C. Gupta,
- (5) Shri S. A. Moiz,
- (6) Shri B. K. Sinha,
- (7) Shri R. K. Verma,
- (8) Shri N. G. Nandi,

} Assistant Commissioner, Coal Mines Provident Fund.

- (9) Shri O. P. Sharma,
- (10) Shri A. B. Prasad,
- (11) Shri S. P. Sharma,
- (12) Shri N. C. Bhattacharji,
- (13) Shri L. P. Sinha,
- (14) Shri Laxmi Chandar,
- (15) Shri B. R. Uppal,
- (16) Shri P. N. Kacker,
- (17) Shri K. M. Burman,
- (18) Shri P. K. Bhattacharjee,
- (19) Shri Sant Kumar Saxena,
- (20) Shri Om Prakash Agarwal,
- (21) Shri Manoranjan Kumar Sinha,
- (22) Shri R. K. Rajbanshi,

} Coal Mines Provident Fund Inspectors.

[No. 2(350)/63-PF-I.]

P. D. GAIHA, Under Secy.

